

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1138

- Applicant** : Mr. CHAN Chung Lung, Ben
- Site** : Lots 1220 RP (Part) and 1223 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Kung Um Road, Shap Pat Heung, Yuen Long, New Territories
- Site Area** : 358.88 m² (about) (including GL of about 6.22 m² or 1.73%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Warehouse for Storage of Non-staple Food for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse for storage of non-staple food 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 occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site involves four previous applications for the same use as the current application (**Plan A-1b**). The last application (No. A/YL-TYST/932) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 4.1.2019. All the approval conditions of the planning permission have been complied with and the planning permission lapsed on 9.1.2022. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

- 1.3 According to the applicant, the proposal is for storage of non-staple food. Plans showing the site layout, as-built drainage facilities and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/932, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/932	Current Application No. A/YL-TYST/1138
Applied Use	Temporary Warehouse for Storage of Non-staple Food for a Period of 3 Years	
Site Area	About 358.88 m ²	
Total Floor Area (Non-domestic)	About 202.5 m ²	
No. and Height of Structures	3 • for warehouses and office (2.7-3.6m, 1 storey)	
No. of Parking Spaces	Nil	
No. of Loading/Unloading Space(s)	1 (1.65m x 4.47m) (for light goods vehicles)	
Operation Hours	8:00 a.m. to 6:00 p.m., with no operation on Sundays and Public Holidays	

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

- (a) Application Form with annexes and plans received on 14.12.2021 **(Appendix I)**
- (b) Further Information (FI) received on 7.1.2022 **(Appendix Ia)**
[exempted from publication and recounting requirements]

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) All approval conditions of the previous application were complied with and the applicant has obtained consent from current land owners. As the applicant missed the deadline for renewal of the previous permission, a fresh application is made.
- (b) The applied use will provide job opportunity to the residents nearby.

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 obtaining consent from all ‘current land owners’. Detailed

information would be deposited at the meeting for Members' inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves four approved previous applications (No. A/YL-TYST/505, 637, 752 and 932) for the same use as the current application covering different extents of the Site. All four applications were approved with conditions by the Committee between 2010 and 2019 each for a period of 3 years. The applications were approved mainly on the considerations that the development was not in conflict with the planning intention of the "U" zone and temporary approval would not frustrate the long-term use of the area; it was not incompatible with the surrounding areas; and the concerns of relevant government departments could be addressed by imposition of approval conditions. However, the planning permissions for applications No. A/YL-TYST/505 and 637 were subsequently revoked in 2012 and 2014 respectively due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Compared with the last application (No. A/YL-TYST/932), the current application is submitted by the same applicant for the same use on the same site with the same 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.
- 6.4 For Members' information, applications No. A/YL-TYST/1137 (for renewal of temporary warehouse and open storage for storage of homeware 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-1a**).

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-4b)

8.1 The Site is:

- (a) abutting Kung Um Road to its east;
- (b) fenced off and paved; and
- (c) currently occupied by the applied use without valid planning permission (**Plans A-4a and A-4b**).

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

- (a) comprise predominately warehouses and open storage/storage yards with scattered residential structures, logistics centre, workshop, refuse collection point (RCP), shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 30m to its northeast;
- (c) to the further east across Kung Um Road and Pak Sha Shan Road is an area zoned “Other Specified Uses” annotated “Rural Use” on the approved Tai Tong OZP No. S/YL-TT/18; and
- (d) except for six warehouses with valid planning permissions (No. A/YL-TYST/1038, 1053, 1070, 1079, 1094 and 1112), as well as two other warehouses, a storage yard, workshop and RCP, the remaining warehouses, open storage/storage yards and logistics centre in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises GL and 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, the GL adjoining Lot No. 1223 RP in D.D. 119 and Lots No. 1220 RP and 1223 RP in D.D. 119 are covered by Short Term Tenancy (STT) No. 3091 and Short Term Waivers (STWs) No. 4733 and 4734 respectively to permit structures erected thereon for the purpose of “Temporary Warehouse for Storage of Non-Staple Food”.
- (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT 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 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 Sites” (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.
- (b) Based on the submission, apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TYST/932.
- (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/932 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction; the submitted FSIs proposal (**Drawing A-3**) 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**.

Long-Term Development

9.1.8 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the YLS Study. According to the

Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Local Open Space” (“LO”) and partly within an area shown as ‘Road’.

- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

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

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the northwestern part of 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.
- (c) However, the southeastern part of 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 for the southeastern part of the Site 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) 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 Comment Received During the Statutory Publication Period

On 21.12.2021, 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 IV**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of non-staple food at the Site zoned “U” on the OZP. The applied use is generally not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. The area is designated as “U” 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 partly within an area zoned “LO” within Stage 3 of YLS Development and partly within an area shown as ‘Road’ within Stage 2 Phase 2 of the YLS Development. However, 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 applied use is generally not incompatible with the surrounding uses in the area.
- 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 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 four previous approvals for the same use 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 were four similar applications in the subject “U” zone rejected on the grounds that approval of the applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses. However, such considerations are not applicable to the current application as all the approval conditions imposed on the last previous application (No. A/YL-TYST/932) had been complied with.

- 11.5 There is one public comment objecting to the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of non-staple food 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 28.1.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 28.4.2022;
- (d) 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 28.7.2022;
- (e) if any of the above planning condition (a) or (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
- (f) if any of the above planning condition (c) or (d) 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 There is no strong reason to recommend rejection of the application.

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 14.12.2021
Appendix Ia	FI received on 7.1.2022
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within/straddling the “U” Zone on the OZP since 2017
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	As-built Drainage Plan
Drawing A-3	FSIs Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2022**