

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1152

- Applicant** : Cyber Building Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 1255 (Part), 1256 (Part), 1258 (Part) and 1259 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 2,832 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** : Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of construction materials for a period of 3 years at the application site (the Site) (**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 occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site is accessible from Kung Um Road to its east via a local track. According to the applicant, the proposal is for storage of construction materials (including tiles, sanitary ware, and marble, etc.). No repairing, dismantling, cleansing or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles, including container trailer/tractor, will be allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout, as-built drainage facilities and fire service installations (FSIs) proposals submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is the subject of seven previous applications (No. A/YL-TYST/450, 580, 583, 691, 719, 796 and 972) (details at paragraph 5 below).

- 1.4 The major development parameters of the current application are the same as the last previously approved application No. A/YL-TYST/972 albeit with shorter operation hours and are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/972	Current Application No. A/YL-TYST/1152
Applied Use	Temporary Warehouse for Storage of Construction Materials for a Period of 3 Years	
Site Area	About 2,832 m ²	
Total Floor Area (Non-domestic)	2,377m ² (about)	
No. and Height of Structures	5 • for warehouse, toilet, ancillary office, pump room and water tank (3-11m, 1 storeys)	
No. of Loading/Unloading Space	1 (for light goods vehicle) (7m x 3.5m)	
No. of Parking Space	Nil	
Operation Hours	9:00 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 28.1.2022 (Appendix I)
- (b) Further Information (FI) received on 3.3.2022 (Appendix Ia)
- (c) FI received on 16.5.2022 (Appendix Ib)
[(b) and (c) exempted from publication and recounting requirements]

- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 18.3.2022 for consideration of the application has been rescheduled, and the Board agreed to defer consideration of this application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (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 temporary proposal would not jeopardise the long-term planning intention. A number of open storage and 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 compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in TYST.

- (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) There will be minimal traffic, environmental and drainage impacts arising from the proposal. Should the application be approved, the applicant pledges to implement the accepted FSIs proposal immediately.

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 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 seven approved previous applications for various temporary warehouse 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**.
- 5.2 Applications No. A/YL-TYST/450, 580, 583, 691, 719, 796 and 972 for similar temporary warehouse uses were all approved with conditions by the Committee between 2009 and 2019 each for a period 3 years, mainly on the considerations that the proposals were not incompatible with the surrounding uses; approval of the applications 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. However, the planning permissions for applications no. A/YL-TYST/450, 580, 583, 691, 719 and 972 were revoked between 2011 and 2022 due to non-compliance with approval conditions.
- 5.3 Compared with the last application (A/YL-TYST/972), 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 (see paragraph 1.4).

6. **Similar Applications**

- 6.1 A total of 79 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 II** and the locations of the sites are shown on **Plan A-1a**.

- 6.2 Out of the 79 similar applications, 75 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 20 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 the 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”, 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 from Kung Um Road to its east via a local track (**Plan A-3**);
 - (b) fenced off and paved; and
 - (c) occupied by the applied use without valid planning permission (**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, vehicle repair workshops and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located about 55m to its northwest; and
 - (c) except for four warehouses with valid planning permissions (No. A/YL-TYST/982, 1004, 1038 and 1100), the remaining warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and the public comment received and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comment Received During the Statutory Publication Period

On 8.2.2022, 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 V**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of construction materials 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, Commissioner for Transport (C for T) has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS, the Site falls within an area partly zoned “Residential - Zone 2 (Subsidised Sale Flats with Commercial)” and “Amenity” and partly shown as ‘Road’ under Stage 3 of YLS Development. However, Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department and Project Manager (West), Civil Engineering and Development Department 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 area.

11.3 There is no adverse comment from concerned government departments, including C for T, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. 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 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 on Handling the

Environmental Aspect of Temporary Uses and Open Storage Use” to minimise any potential environmental impact on the surrounding areas.

- 11.4 The last application (No. A/YL-TYST/972) for the same use as the current application was approved with conditions for a period of 3 years by the Committee on 2.8.2019. However, the planning permission was revoked on 2.1.2022 due to non-compliance with time-limited approval condition on implementation of FSIs proposal. The current application is submitted by the same applicant with the same layout and development parameters. Nevertheless, the applicant has submitted FSIs proposal for the current application and D of FS have no in-principle objection to the application. 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 also 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 applications.
- 11.5 Given that seven previous approvals for the same use have been granted to the Site and 75 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. While 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, the circumstances of the current application are different from these rejected applications.
- 11.6 There is one public comment objecting to the application received 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 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 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 1.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (b) 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 1.9.2022;

- (c) the submission of a revised fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.9.2022;
- (d) in relation to (c) above, the implementation of the 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 1.12.2022;
- (e) if the above planning condition (a) 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 (b), (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 IV**.

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 annex and plans received on 28.1.2022
Appendix Ia	FI received on 3.3.2022
Appendix Ib	FI received on 16.5.2022
Appendix II	Previous Applications covering the Site and Similar Applications within/straddling the “U” Zone on the OZP since 2017
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment received during the Statutory Publication Period
Drawing A-1	Vehicular Access Plan

Drawing A-2	Site Layout Plan
Drawing A-3	As-built Drainage Proposal
Drawing A-4	FSIs Proposal
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
JUNE 2022**