

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1162

- Applicant** : Ching Wo Company represented by Metro Planning & Development Company Limited
- Site** : Lots 1399 (Part), 1401 S.A to S.D (Part), 1402 (Part) and 1403 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 3,200 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
- Zonings** : “Residential (Group A)3” (“R(A)3”) (about 88.7%); and
[restricted to a maximum plot ratio of 7 and maximum building height of 160mPD]
area shown as ‘Road’ (about 11.3%)
- Application** : Temporary Warehouse for Storage of Advertising Material, Construction Material, Electronic Goods and Household Product for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of advertising material, construction material, electronic goods and household product for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site mainly falls within an area zoned “R(A)3” (about 88.7%) and partly within an area shown as ‘Road’ (about 11.3%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “R(A)” 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 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 the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).

- 1.2 The Site is accessible from Kung Um Road to its east via a local track (**Plan A-3**). According to the applicant, the proposal is for storage of advertising material, construction material, electronic goods and household product (including sweepers, buckets, sanitary ware, pamphlets, tablets and mobile phones, etc.). No open storage use will be carried out at the Site. Only private car and medium goods vehicles (MGVs) will access the Site and no 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 with tree preservation proposal, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.3 The Site is the subject of six previous applications (No. A/YL-TYST/256, 316, 463, 537, 746 and 990) (details at paragraph 5 below).
- 1.4 The major development parameters of the current application and the last previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/990 (a)	Current Application No. A/YL-TYST/1162 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Advertising Material, Construction Material, Electronic Goods and Household Product for a Period of 3 Years		---
Site Area	About 3,200 m ²		---
Total Floor Area (Non-domestic)	About 2,061 m ²		---
No. and Height of Structures	14 • for warehouse, open shed, storeroom, washroom, pump room, water tank and site office (3-6m, 1-2 storey(s))		---
No. of Parking Spaces	Nil	1 (for private car) (5m x 2.5m)	+1
No. of Loading/Unloading Space	2 (for MGV) (11m x 3.5m each)		---
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 Hour

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annexes and plans received on 2.6.2022 (**Appendix I**)
- (b) Further Information (FI) received on 21.7.2022 (**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 and FI (**Appendices I and Ia**). They can be summarised as follows:

- (a) The Site has been the subject of six previous planning permissions for warehouse use since 2004. As the responsible person of the Ching Wo Limited has been residing abroad, he could not confirm with the contractor for the implementation of the drainage works and FSIs for the previous planning permission. The applied use does not involve erection of new structures and the operation will be accommodated in the existing structures.
- (b) The temporary proposal would not jeopardise the long-term planning intention. A number of warehouse and open storage 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.
- (c) 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).
- (d) 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 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 six previous applications for various temporary warehouse use covering different extents of the Site¹. 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/256, 316, 463, 537, 746 and 990 for various temporary warehouse use were all approved with conditions each for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board between 2004 and 2019 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals 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/256, 316, 463 and 990 were

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

revoked between 2006 and 2022 due to non-compliance with time-limited approval conditions.

- 5.3 Compared with the last application (A/YL-TYST/990), the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters albeit with one additional car parking space and shorter operation hours (see paragraph 1.4).

6. Similar Applications

- 6.1 There are nine similar applications for various temporary warehouse uses within/straddling the subject “R(A)3” zone considered by the Committee of the Board since 2017². All nine applications were approved mainly on similar considerations as paragraph 5.2 above. However, the planning permissions for four of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 For Members’ information, application No. A/YL-TYST/1164 (for temporary warehouse for storage of electronic goods for a period of 3 years) within the same “R(A)3” zone will also be considered at this meeting (**Plan A-1a**).

7. Planning Intention

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.

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

- 8.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track (**Plan A-3**); and
- (b) occupied by the applied use without valid planning permission.

- 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 repair workshops, pond, chicken sheds, agricultural land, plant nursery, orchard, ruins and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate southwest and southeast;

² Four of the application sites were zoned “Undetermined” on previous versions of the OZPs at the time of consideration by the Committee.

- (c) to the further north of the Site are areas zoned “Open Space” on the OZP; and
- (d) except for four warehouses with valid planning permissions (No. A/YL-TYST/1040, 1055, 1130 and 1131), as well as one warehouse and one open storage yard, the remaining warehouses, open storage/storage yards, vehicle repair workshops, parking of vehicles and chicken sheds 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 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department does not support the application.

Environment

9.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there are residential uses in the vicinity (with the nearest one located to its immediate southwest and southeast) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;
- (b) no substantiated environmental complaint concerning the Site was received in the past three years; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix IV**.

10. Public Comments Received During the Statutory Publication Period

On 10.6.2022, 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 applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix V-1**). Another individual opines that questions must be asked on the non-compliance with the approval conditions of the previous planning permission and the applied use will cause public health, safety and hygiene issues (**Appendix V-2**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of advertising material, construction material, electronic goods and household product at the Site mainly zoned “R(A)3” and partly shown as ‘Road’ on the OZP. The planning intention of

the “R(A)” zone is primarily for high-density residential developments. Although the applied use is not in line with the aforesaid planning intention and the Site largely falls within an area zoned “Special Residential – Zone 1 – Public Rental Housing (with Commercial)”, partly within an area zoned “Residential – Zone 1 (Subsidised Sale Flats with Commercial)” and partly within an area shown as ‘Road’ on the Revised Recommended Outline Development Plan of Yuen Long South (YLS) under YLS Development Stage 2 Phase 2, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department does not raise objection and the Project Manager (West), Civil Engineering and Development Department 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 residential structures in the vicinity, the applied 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, except DEP. DEP does not support the application as there are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located to its immediate southwest and southeast) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there was no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any possible environmental nuisance and 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. The applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.4 The last application (No. A/YL-TYST/990) for the same use as the current application was approved with conditions for a period of 3 years by the Committee on 15.11.2019. However, the planning permission was revoked on 15.4.2022 due to non-compliance with time-limited approval conditions on implementation of drainage and FSIs proposals. The current application is submitted by the same applicant with the same layout and development parameters. Nevertheless, the applicant has submitted drainage and FSIs proposals for the current application, which have been accepted by CE/MN, DSD and D of FS. As such, sympathetic consideration may be given to the current application. 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 applications.
- 11.5 Given that six previous approvals for the same warehouse use have been granted to the Site and nine similar applications within/straddling the subject “R(A)3” 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 views on the application received during the statutory publication period 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 comments mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of advertising material, construction material, electronic goods and household product 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 29.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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 29.1.2023;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 29.1.2023;
- (f) 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
- (g) if any of the above planning condition (c) or (e) 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 reasons for rejection are suggested for Member's reference:

- (a) the applied use is not in line with the planning intention of the “R(A)” zone which is primarily for high-density residential developments. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding area.

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 2.6.2022
Appendix Ia	FI received on 21.7.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 and V-2	Public Comments
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan with Tree Preservation Proposal
Drawing A-3	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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2022**