

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1167

- Applicant** : Mr. FONG Chi Wing represented by Ever United Planning and Development Limited
- Site** : Lots 1018 S.B, 1156, 1157 S.A, 1157 S.B and 1158 S.A & B in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 3,630 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 with Ancillary Workshop and Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of construction materials with ancillary workshop and site office for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, all uses or developments 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, 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 ancillary workshop activities include dismantling, sorting, packaging and repairing of construction materials, which would be carried out in Structure No. 1 under shelters and on concrete-paved area (**Drawing A-2**). No ancillary workshop activities involving used electrical/electronic appliances and parts and no storage/handling/loading and unloading (L/UL) of cathode-ray tubes and any other types of electronic waste will be carried out at the Site. No container vehicles will be allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation proposal, as-built drainage facilities

and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is the subject of five previous applications (No. A/YL-TYST/357, 475, 643, 803 and 966) (details at paragraph 5 below).
- 1.4 The major development parameters of the current application are the same as the last previously approved application and are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/966	Current Application No. A/YL-TYST/1167
Applied Use	Temporary Warehouse for Storage of Construction Materials with Ancillary Workshop and Site Office for a Period of 3 Years	
Site Area	About 3,630 m ²	
Total Floor Area (Non-domestic)	About 2,359 m ²	
No. and Height of Structures	10 • for warehouse, site offices, toilet, pump room/water tank, rain shelters, guard room and store room (3-6.5m, 1-2 storey(s))	
No. of Parking Space	1 (for private cars/light goods vehicles) (5 m x 2.5 m)	
No. of L/UL Space(s)	2 (for medium / heavy goods vehicles) (11 m x 3.5 m each)	
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 supplementary planning statement and plans received on 9.6.2022 | (Appendix I) |
| (b) | Further Information (FI) received on 7.7.2022 | (Appendix Ia) |
| (c) | FI received on 20.7.2022 | (Appendix Ib) |
- [(b) and (c) 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 supplementary planning statement (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of four previous planning permissions for the same use. The applicant had made efforts to comply with the approval condition on implementation of FSIs proposal for the previous application. All fire service facilities had actually been installed on site but the condition was not complied with due to minor amendments required during site inspection by the Fire Services Department, and there was not enough time for arranging second site inspection. Should the planning application be approved, the applicant pledges to comply with all approval conditions with the specified timeframe.

- (b) The temporary proposal is in line with the planning intention of the “U” zone and would not jeopardise the long-term planning intention for the area. 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 open storage use in TYST. The applied use can serve such demand.
- (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 adverse impacts arising from the proposal. The applicant pledges to follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (“Code of Practice”) to minimise any environmental nuisances on the surrounding area.

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 publishing notices in local newspapers. 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 five previous applications, including one approved application (No. A/YL-TYST/357) for temporary open storage use not relevant to the current application, and four approved applications (No. A/YL-TYST/475, 643, 803 and 966) for the same use as the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-TYST/475, 643, 803 and 966 for temporary warehouse with ancillary workshop and site office uses 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 2010 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 three of them, including the last two applications, were revoked between 2012 and 2022 due to non-compliance with time-limited approval condition on implementation of FSIs proposal.

- 5.3 Compared with the last application (A/YL-TYST/966), the current application is submitted by the same applicant for the same use at the same site with the same layout and development parameters (see paragraph 1.4).

6. Similar Applications

- 6.1 A total of 81 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-1**.
- 6.2 Out of the 81 similar applications, 77 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 22 of them were subsequently revoked due to non-compliance with approval conditions.
- 6.3 The remaining four applications 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-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**); and
 - (b) paved and occupied by the applied use without valid planning permission (**Plans A-2, 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, vehicle repair workshops, parking of vehicles and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate west;
- (c) to the further east of the Site 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 one open storage yard with valid planning permission (No. A/YL-TYST/1062), the remaining warehouses, open storage/storage yards, vehicle repair workshops and parking of vehicles 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 departments 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 west) (**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 17.6.2022, 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 revocation of the previous planning permission due to non-compliance with approval conditions should be taken into consideration by the Board (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials with ancillary workshop and site office 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 has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS, the Site falls partly within areas zoned “District Open Space” and “Local Open Space” and partly within an area shown as ‘Road’ under Stage 3 of YLS Development. However, the 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, 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 west) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, no substantiated environmental complaint concerning the Site was received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental impact on the surrounding areas 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”.
- 11.4 The last two applications (No. A/YL-TYST/803 and 966) for the same use as the current application were approved with conditions each for a period of 3 years by the Committee in 2016 and 2019. However, the planning permissions were revoked on 7.2.2019 and 6.2.2022 respectively 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 as the last application. Nevertheless, the applicant has provided justifications for non-compliance of approval condition of the previous application and claims that the FSIs have been installed at the Site. The applicant has also submitted FSIs proposal for the current application, which was accepted by the Director of Fire Services. 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 four previous approvals for the same applied use had been granted to the Site and 77 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, sympathetic consideration may be given to the current application for the reasons stated in paragraph 11.4 above.
- 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 construction materials with ancillary workshop and site office 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 6:00 p.m. and 8:00 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 existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 29.10.2022;
- (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 (c) 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 (d) 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 reason for rejection is suggested for Member's reference:

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 supplementary planning statement and plans received on 9.6.2022
Appendix Ia	FI received on 7.7.2022
Appendix Ib	FI received on 20.7.2022
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
Drawing A-3	Tree Preservation Proposal
Drawing A-4	As-built Drainage Proposal
Drawing A-5	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

**Plans A-4a and Site Photos
A-4b**

**PLANNING DEPARTMENT
JULY 2022**