

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1169

- Applicant** : Mao Shing Management Company Limited represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 117 and Adjoining Government Land (GL), Kung Um Road, Yuen Long, New Territories
- Site Area** : 5,972 m² (about) (including GL of about 85m² or 1.4%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Other Specified Uses” annotated “Sewage Treatment Works” (“OU(STW)”) (about 86%); and
[restricted to a maximum building height of 35mPD]

“Undetermined” (“U”) (about 14%)
- Application** : Temporary Warehouse for Storage of Construction Materials and Electronic Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of construction materials and electronic goods for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site mainly falls within an area zoned “OU(STW)” (about 86%) with a minor portion within an area zoned “U” (about 14%) on the OZP. Although the applied use is neither a Column 1 or 2 use in the “OU(STW)” zone, according to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 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. Furthermore, all uses or developments within the “U” zone except those specified in the Notes 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 short local track (**Plan A-3**). According to the applicant, the applied use is for storage of construction materials and electronic goods (including tablets, mobile phones, desktop computers, tiles, marble and sanitary wares). No repairing, dismantling, cleansing or other workshop activities will be carried out at the Site. No heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. Plans showing the site layout with tree preservation proposal and as-built drainage facilities submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.3 The Site is the subject of 11 previous applications (No. A/YL-TYST/47, 288, 376, 430, 443, 582, 654, 742, 852, 871 and 971) (details at paragraph 5 below).
- 1.4 The major development parameters of the current application and the previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/971 (a)	Current Application No. A/YL-TYST/1169 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Paper Products and Electronic Goods for a Period of 3 Years	Temporary Warehouse for Storage of Construction Materials and Electronic Goods for a Period of 3 Years	Change in Stored Items
Site Area	About 5,972 m ²		---
Total Floor Area (Non-domestic)	Not more than 1,867 m ²		---
No. and Height of Structures	15 • for warehouses, electricity meter rooms, pump rooms and water tanks (4 - 7m, 1 storey)		---
No. of Parking Space	Nil		---
No. of Loading/Unloading Space(s)	3 (for medium goods vehicles) (11 m x 3.5 m each)		---
Operation Hours	7:00 a.m. to 9:00 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 Hours

- 1.5 In support of the application, the applicant has submitted an Application Form with annex and plans received on 24.6.2022 (**Appendix I**).

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 was the subject of seven previous planning permissions. All the time-limited approval conditions of the last application (No. A/YL-TYST/971) had been

complied with. A fresh planning application is submitted due to a change in stored items.

- (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 yards and warehouses 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 use in TYST.
- (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 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. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves 11 previous applications, including one rejected application (No. A/YL-TYST/47) and two approved applications (No. A/YL-TYST/430 and 582) for temporary open storage uses not relevant to the current application, as well as eight approved applications (No. A/YL-TYST/288, 376, 443, 654, 742, 852, 871 and 971) for similar warehouse uses with/without other uses 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/288, 376, 443, 654, 742, 852, 871 and 971 for various temporary warehouse uses with/without other uses were all approved with conditions each for a period of 3 years by the Rural and New Town Planning Committee (the Committee) or the Board on review between 2005 and 2019 mainly on the considerations that the proposals were in line with the planning intention of the “U” zone; the proposals were not incompatible with the surrounding uses; the proposals would not jeopardise the long-term development of the area; and the

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

concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions for six of them were revoked between 2008 and 2019 due to non-compliance with approval conditions. All the time-limited approval conditions under the last application (No. A/YL-TYST/971) had been complied with and the permission lapsed on 3.8.2022.

- 5.3 Compared with the last application (No. A/YL-TYST/971), the current application is submitted by the same applicant for similar warehouse use at the same site with the same layout and development parameters but with shorter operation hours (see paragraph 1.4).

6. Similar Applications

- 6.1 A total of 85 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “OU(STW)” and “U” zones 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 85 similar applications, 81 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 24 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 Intentions

- 7.1 The planning intention of the “OU(STW)” zone is primarily for the provision of sewage treatment/screening plant.
- 7.2 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.
- 7.3 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 partly 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) accessible from Kung Um Road to its east via a short local track (**Plan A-3**); and
- (b) paved, fenced off 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, graves and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate east; and
- (c) except for two warehouses with valid planning permissions (No. A/YL-TYST/983 and 1007), 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 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 east) (**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 5.7.2022, 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 alleges that the previous planning permission was revoked due to non-compliance with approval conditions and that approval of the current application would hinder the long-term development of the area (**Appendix V-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction materials and electronic goods at the Site mainly zoned “OU(STW)” and partly zoned “U” on the OZP. Although the applied use is not in line with the planning intention of the “OU(STW)” zone (earmarked for STW under YLS Development Stage 2 Phase 2), and the “U” zoned portion of the Site also falls partly within areas zoned “Local Open Space” and ‘Road’ under Stage 3 of the YLS Development, 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 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 east) (**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 on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 11.4 Given that eight previous approvals for similar warehouse uses with/without other uses have been granted to the Site and 81 similar applications within/straddling the subject “OU(STW)” and “U” zones have been approved since 2017, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 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 11.4 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 comments mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction materials and electronic goods 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 12.8.2025. 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) no repairing, dismantling, cleansing and other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) 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 12.11.2022;
- (f) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 12.2.2023;
- (g) in relation to (f) above, the implementation of run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 12.5.2023;
- (h) the submission of a 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 12.2.2023;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 12.5.2023;

- (j) if any of the above planning condition (a), (b), (c) 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
- (k) if any of the above planning condition (e), (f), (g), (h) or (i) 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 "OU(STW)" zone, which is primarily for the provision of sewage treatment/screening plant. 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 annex and plans received on 24.6.2022
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	Site Layout Plan with Tree Preservation Proposal
Drawing A-2	As-built Drainage 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
AUGUST 2022**