

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1174**

- Applicant** : Nice China Enterprise Limited represented by Top Bright Consultants Limited
- Site** : Lots 1195 (Part), 1197 S.A (Part), 1198 S.C (Part) and 1198 S.F (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,255 m<sup>2</sup> (about)
- 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** : Proposed Temporary Warehouse for Storage of General Goods for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of general goods 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 developments within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is bisected into two portions by a local track. Both portions are occupied by open storage of construction materials 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 Site will only be used to store general goods (including tissue paper, toilet roll paper, and kitchen paper towels, etc.). No electronic goods will be stored at the Site and no workshop activities will take place at the Site. Only light goods vehicle (LGV) will be used for delivery of goods. Plans showing the vehicular access leading to the Site, site layout, landscape 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 two previous applications (No. A/YL-TYST/212 and 960) (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/960 (a)	Current Application No. A/YL-TYST/1174 (b)	Difference (b)-(a)
Proposed/Applied Use	Temporary Warehouse for Storage of General Goods for a Period of 3 Years		---
Site Area	About 1,255 m <sup>2</sup>		---
Total Floor Area (Non-domestic)	About 920 m <sup>2</sup>	About 801 m <sup>2</sup>	-119 m <sup>2</sup> (-12.9%)
No. and Height of Structures	6 • for warehouses, washrooms, canopy and meter room (2.5 - 8.4m, 1 storey)	8 • for warehouses, washrooms, canopy and meter room (2.5 - 8.4m, 1 storey)	+2 (+33.3%)
No. of Parking Space	Nil		---
No. of Loading/Unloading Space(s)	1 (for LGV) (7 m x 3.5 m each)		---
Operation Hours	10:00 a.m. to 4:00 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 19.7.2022 **(Appendix I)**
  - (b) Further Information (FI) received on 29.7.2022 **(Appendix Ia)**
  - (c) FI received on 30.8.2022 **(Appendix Ib)**
  - (d) FI received on 6.9.2022 **(Appendix Ic)**
- [(b) to (d) 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 a previous planning permission (No. A/YL-TYST/960) for the same use. The applicant had made efforts to comply with the approval condition on implementation of FSIs proposal for the previous application. A short term waiver (STW) application had been submitted over two years ago to erect new structures on the Site. The implementation of the FSIs could not be proceeded due to pending approval of the STW application.
- (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 under Yuen Long South (YLS) Development Stage 3.

- (c) A number of similar applications have been approved by the Board in the vicinity of the Site. The proposed use is compatible with the surrounding environment.
- (d) There will be minimal environmental, visual, drainage or traffic 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 two previous applications, including a rejected application (No. A/YL-TYST/212) for temporary open storage use not relevant to the current application, and an approved application (No. A/YL-TYST/960) 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-1b**.
- 5.2 Application No. A/YL-TYST/960 for temporary warehouse for storage of general goods was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board in 2019 mainly on the considerations that the proposal was not incompatible with the surrounding uses; the proposal 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 permission was revoked in 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/960), the current application is submitted by the same applicant for the same use at the same site with slightly different layout and development parameters (see paragraph 1.4).

### **6. Similar Applications**

- 6.1 A total of 84 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 84 similar applications, 80 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.
- 6.4 For Members' information, applications No. A/YL-TYST/1173 (for proposed temporary warehouse for storage of electronic goods, furniture and construction materials for a period of 3 years) and 1175 (for proposed temporary warehouse for storage of construction materials 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 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-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, fenced off and occupied by open storage of construction materials 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 workshop and vacant land/structures;
  - (b) there are residential structures in the vicinity of the Site with the nearest one located to the immediate south of the western portion of the Site;
  - (c) except for six warehouses and one open storage yard with valid planning permissions (No. A/YL-TYST/982, 1000, 1019, 1038, 1079, 1094 and 1133),

the remaining warehouses, open storage/storage yards and vehicle repair workshop in the vicinity are suspected unauthorised developments 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 advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

## **10. Public Comments Received During the Statutory Publication Period**

On 26.7.2022, 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 proposed use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix V-1**). Another individual opines that there are fire safety concerns due to non-compliance with approval conditions of the previous planning application and such situation should not be tolerated (**Appendix V-2**).

## **11. Planning Considerations and Assessments**

11.1 The application is for proposed temporary warehouse for storage of general goods for a period of 3 years at the Site zoned “U” on the OZP. The proposed 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 zoned “Other Specified Uses (Mixed Use)” under Stage 3 of YLS Development. 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 with some of them covered by valid planning permissions (**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 (D of FS) and Chief Engineer/Mainland North, Drainage Services Department. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no substantiated environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval

conditions are recommended in paragraph 12.2 below to address the technical requirements of concerned government departments.

- 11.4 The last application (No. A/YL-TYST/960) for the same use as the current application was approved with conditions for a period of 3 years by the Committee in 2019. However, the planning permission was revoked on 16.1.2022 due to non-compliance with time-limited approval condition on implementation of FSIs proposal. The current application is submitted by the same applicant with similar 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 the applicant has also submitted FSIs proposal for the current application, which was accepted by the 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 may not be given to any further applications.
- 11.5 Given that one previous approval for the same use had been granted to the Site and 80 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.
- 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 proposed temporary warehouse for storage of general 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 9.9.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### Approval conditions

- (a) 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 9.12.2022;
- (b) in relation to (a) above, the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;

- (c) the implementation of the accepted 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 9.6.2023;
- (d) if the above planning condition (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
- (e) if any of the above planning condition (a) or (c) 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**

<b>Appendix I</b>	Application Form with supplementary planning statement and plans received on 19.7.2022
<b>Appendix Ia</b>	FI received on 29.7.2022
<b>Appendix Ib</b>	FI received on 30.8.2022
<b>Appendix Ic</b>	FI received on 6.9.2022
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendices V-1 and V-2</b>	Public Comments
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	Landscape Plan
<b>Drawing A-4</b>	FSIs Proposal
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan

<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2022**