

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1197

- Applicant** : Mr. XU Sen Lin represented by Metro Planning & Development Company Limited
- Site** : Lots 1198 S.A (Part), 1198 S.B (Part), 1228 (Part) and 1231 S.A ss.1 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,592 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 Vehicle Repair Workshop and Warehouse for Storage of Vehicle, Vehicle Parts and Electronic Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary vehicle repair workshop and warehouse for storage of vehicle, vehicle parts and electronic goods for a period of three 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 currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kung Um Road via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for temporary vehicle repair workshop and storage of vehicle, vehicle parts and electronic goods (including brand new mobile phones and computer accessories). No storage of recyclable materials, open storage, car dismantling, recycling and handling of cathode-ray tubes will be carried out at the Site. No medium or heavy goods vehicles, including container tractors/trailers, will be allowed to access the Site. Plans showing the vehicular access leading to the Site, proposed site layout, as-built drainage facilities 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 three previous applications (No. A/YL-TYST/829, 879 and 1022) approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2017 and 2020 (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/1022 (a)	Current Application No. A/YL-TYST/1197 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Vehicle, Vehicle Parts and Electronic Goods for a Period of 3 Years	Temporary Vehicle Repair Workshop and Warehouse for Storage of Vehicle, Vehicle Parts and Electronic Goods for a Period of 3 Years	Addition of Use
Site Area	About 1,592 m ²		---
Total Floor Area (Non-domestic)	Not more than 1,305 m ²		---
No. and Height of Structures	5 • for warehouse, guard room, site offices, toilet and electricity meter room (3 – 8.5m, 1 to 2 storey(s))	5 • for vehicle repair workshop, warehouse, guard room, site offices, toilet and electricity meter room (3 – 8.5m, 1 to 2 storey(s))	---
No. of Parking Space(s)	Nil	1 (for private car) (5 m x 2.5 m)	+1
No. of Loading/Unloading Space(s)	1 (for light goods vehicle) (7 m x 3.5 m)		---
Operation Hours	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 attachments received on 4.1.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 9.2.2023* (**Appendix Ia**)
 - (c) FI received on 20.2.2023* (**Appendix Ib**)
- * *accepted and exempted from publication 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 Ib**). They can be summarised as follows:

- (a) the applied use is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F);

- (b) the Site was the subject of three previous planning permissions for warehouse uses. The applicant had not fulfilled the approval conditions of the last planning permission regarding submission and implementation of FSIs proposal due to the pandemic. The applicant pledges to submit the FSIs proposal shortly and to implement the FSIs proposal;
- (c) the applied use is in line with the planning intention of the “U” zone. Similar open storage and port back-up uses and vehicle repair workshop uses have been approved by the Board in the vicinity of Site and the “U” zone. Their planning circumstances are similar to that of the Site and the applied use is compatible with the surrounding environment. Besides, there is a shortage of land for open storage use in TYST; and
- (d) there will be minimal environmental, traffic and drainage impacts arising from the applied use.

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 three approved previous applications (No. A/YL-TYST/829, 879 and 1022) for similar 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-1**.
- 5.2 Applications No. A/YL-TYST/829, 879 and 1022 for various temporary warehouse uses were all approved with conditions each for a period of three years by the Committee between 2017 and 2020 mainly on the considerations that the applied uses 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 above planning permissions were subsequently revoked between 2018 and 2022 due to non-compliance with time-limited approval conditions¹.

¹ Applications No. A/YL-TYST/829 and 879 were submitted by different applicants from the current application.

- 5.3 Compared with the last application (No. A/YL-TYST/1022), the current application is submitted by the same applicant for similar uses at the same site with the same layout and development parameters albeit with one additional car parking space (see paragraph 1.4). The planning permission was revoked on 26.9.2022 owing to the failure to comply with approval conditions regarding the submission and implementation of a revised fire service installations proposal.

6. Similar Applications

- 6.1 A total of 81 similar planning applications for various temporary vehicle repair workshop or warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2018. 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 as those summarised in paragraph 5.2 above. However, the planning permissions for 20 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, application No. A/YL-TYST/1198 (for renewal of planning approval for temporary warehouse for storage of machinery and spare parts with ancillary site office for a period of three years) within the same “U” zone will also be considered at this meeting (**Plan A-1**).

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-4)

- 8.1 The Site is:
- (a) accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**); and

- (b) paved, fenced off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).

8.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominantly warehouses and open storage/storage yards with scattered residential structures, vehicle repair workshops, shrubland and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 20m to its north; and
- (c) except for seven warehouses and open storage yards with valid planning permissions (No. A/YL-TYST/1019, 1038, 1079, 1094, 1133, 1171 and 1184), the remaining warehouses, open storage/storage yards and vehicle repair workshops in the vicinity are suspected unauthorized developments subject to planning enforcement action.

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 has adverse comment on the application:

Land Administration

Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

He has grave concerns given that there are unauthorized building works and/or uses on Lot No. 1228 in D.D. 119 which is already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by his department.

10. Public Comment Received During the Statutory Publication Period

On 17.1.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application on the grounds that the approval conditions of the last planning permission had yet to be complied with, and consecutive revocations of planning permissions should be taken into consideration by the Board (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary vehicle repair workshop and warehouse for storage of vehicle, vehicle parts and electronic goods for a period of three years 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 partly within an area zoned “Residential Zone 2 (with Commercial)” and “Other Specified Uses (Mixed Use)” and partly within an area shown as ‘Road’ 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 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 have no objection to/no adverse comment on the application except DLO/YL, LandsD. DLO/YL, LandsD has grave concerns on the application as there are unauthorized building works and/or uses on the Site which are currently subject to lease enforcement actions. In this regard, the applicant indicates that he will take action to remedy the lease breaches as demanded by DLO/YL, LandsD (**Appendix Ib**). Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. There was no 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. Should the planning application be approved, 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” to minimise any potential environmental impact on the surrounding areas.
- 11.4 The last application (No. A/YL-TYST/1022) for similar use as the current application was approved with conditions for a period of three years by the Committee on 26.6.2020. However, the planning permission was revoked on 26.9.2022 due to non-compliance with time-limited approval conditions regarding the submission and implementation of FSIs proposal. The current application is submitted by the same applicant for similar use at the Site. Nevertheless, the applicant has submitted FSIs proposal for the current application to which D of FS has no objection. 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 application.
- 11.5 Given that three previous applications for similar use and 77 similar applications within/straddling the subject “U” zone have been approved since 2018, 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, such consideration is not applicable to the current application.

- 11.6 There is one public comment objecting to the application received during the statutory public inspection 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 comment mentioned in paragraph 10 above, the Planning Department considers that the temporary vehicle repair workshop and warehouse for storage of vehicle, vehicle parts and electronic goods could be tolerated for a period of three 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 three years until 3.3.2026. 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 3.6.2023;
- (c) the submission of a revised 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 3.9.2023;
- (d) in relation to (c) above, the implementation of the revised 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 3.12.2023;
- (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 attachments received on 4.1.2023
Appendix Ia	FI received on 9.2.2023
Appendix Ib	FI received on 20.2.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**