

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1209

- Applicant** : Eastime Engineering Limited represented by PlanArch Consultants Limited
- Site** : Various Lots in D.D. 119, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 13,500 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** : “Open Space” (“O”) (about 63%);
“Residential (Group A) 3” (“R(A)3”) (about 13%); and
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]
Area shown as ‘Road’ (about 24%)
- Application** : Temporary Open Storage of Construction Equipment and Materials with Ancillary Office and Maintenance Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction equipment and materials with ancillary office and maintenance workshop for a period of three years at the application site (the Site) (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the “R(A)” and “O” zones, 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). 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 to A-4b**).
- 1.2 The Site is accessible from Shan Ha Road to its west via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for storage of construction equipment and materials (including metal scaffolding and tower cranes) with ancillary office and maintenance workshop. Plans showing the vehicular access

leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is the subject of nine previous applications (No. A/YL-TYST/27, 67, 109, 152, 259, 368, 493, 649 and 810) for temporary open storage uses approved by the Rural and New Town Planning Committee (the Committee) or by the Board on review between 1998 and 2016 (details at paragraph 6 below).
- 1.4 Compared with the last application (A/YL-TYST/810), the current application is submitted by a different applicant for similar open storage use (with different items stored) at a smaller site with different site layout and development parameters. 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/810 (a)	Current Application No. A/YL-TYST/1209 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Construction Equipment and Materials (Metal Scaffolding) and Container Site Office Units with Ancillary Maintenance Workshop for a Period of 3 Years	Temporary Open Storage of Construction Equipment and Materials with Ancillary Office and Maintenance Workshop for a Period of 3 Years	Change in Stored Items
Site Area	About 14,880 m ²	About 13,500 m ²	-1,380 m ² (-9%)
Total Floor Area (Non-domestic)	About 2,400 m ²	About 2,947 m ²	+547 m ² (+23%)
No. and Height of Structures	5 • for staff rest areas, ancillary offices, storage and maintenance work and water tank (2.5 – 7.25m, 1 – 2 storey(s))	6 • for staff rest areas, ancillary offices, storage and maintenance work and water tank (3.1 – 11.4m, 1 – 2 storey(s))	+1
No. of Parking Space(s)	7 (for private cars and light goods vehicles) (5 m x 2.5 m each) 6 (for heavy goods vehicles) (11 m x 3.5 m each)	10 (for private cars and light goods vehicles) (5 m x 2.5 m each) 4 (for heavy goods vehicles) (11 m x 3.5 m each)	+1
No. of Loading/Unloading Spaces	Nil		---
Operation Hours	7:00 a.m. to 8:00 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 13.3.2023 (**Appendix I**)
 - (b) Supplementary Planning Statement (**Appendix Ia**)
 - (c) Supplementary Information (SI) received on 14.3.2023 (**Appendix Ib**)
 - (b) Further Information (FI) received on 18.4.2023* (**Appendix Ic**)
 - (c) FI received on 26.4.2023* (**Appendix Id**)
- * *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 Supplementary Planning Statement (**Appendix Ia**). They can be summarised as follows:

- (a) the Site is subject of previous planning permissions since 1998. All the approval conditions of the previous applications had been complied with. The site area of the current application is reduced to exclude land resumed by the Government for implementation of road development in the first phase of Yuen Long South (YLS) Development;
- (b) the applied use is in line with the prevailing Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13F)¹ at the time of submission;
- (c) the applicant has undertaken the environmental mitigation measures set out in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” including paving the Site, prohibiting dusty operations at the open area of the Site, restricting operation hours and erecting boundary fencing. Therefore, adverse environmental impact is not anticipated;
- (d) a number of open storage and workshop uses have been approved by the Board in the vicinity. The applied use is compatible with the surrounding environment. Besides, the temporary use would not jeopardise the long-term planning intention; and
- (e) there will be minimal traffic, environmental, drainage and visual 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 publishing notices in local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

¹ TPB PG-No. 13G was promulgated by the Board on 14.4.2023.

4. Town Planning Board Guidelines

TPB PG-No. 13G is relevant to the application. The Site falls within YLS Development Area under TPB PG-No. 13G promulgated by the Board on 14.4.2023. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site involves nine previous applications (No. A/YL-TYST/27, 67, 109, 152, 259, 368, 493, 649 and 810) for temporary open storage uses with/without other uses covering different extents of the Site². Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.
- 6.2 All nine applications were approved with conditions for a period of two to three years by the Committee or by the Board on review between 1998 and 2016 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not jeopardise 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 for application No. A/YL-TYST/109 was subsequently revoked in 2002 due to non-compliance with approval conditions. As for the last application (No. A/YL-TYST/810), all the time-limited approval conditions have been complied with and the planning permission lapsed on 16.10.2019.

7. Similar Applications

- 7.1 A total of 27 similar planning applications for various temporary open storage with/without other uses within/straddling the subject “O” and “R(A)3” zones had been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the 27 similar applications, 26 were approved³ by the Committee mainly on similar considerations as those in paragraph 6.2 above. However, the planning permissions for eight of them were subsequently revoked due to non-compliance with approval conditions.

² All the application sites involved “Undetermined” zone on previous versions of OZP at the time of consideration by the Committee. The Site was rezoned to “R(A)3”, “O” and area shown as ‘Road’ on the current OZP gazetted on 20.8.2021.

³ The first 13 similar applications were approved prior to the rezoning of the sites to “R(A)3”, “O” and/or ‘Road’ area on the subject OZP.

- 7.3 The remaining application (No. A/YL-TYST/1058) was rejected by the Committee in 2020 mainly on the ground that the applied use was not in line with the then TPB PG-No. 13F in that the applicant could not demonstrate that the continued operation of the applied use would not generate adverse environmental impact on the surrounding areas.

8. Planning Intentions

- 8.1 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 8.2 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.

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

- 9.1 The Site is:

- (a) accessible from Shan Ha Road to its north via a local track (**Plans A-2 and A-3**); and
- (b) paved and occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).

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

- (a) bounded by Lam Tai West Road and a nullah to its immediate east;
- (b) comprise predominately open storage/storage yards with scattered residential structures, warehouses, parking of vehicles, car parks, a pond and vacant land/structures;
- (c) there are residential structures in the vicinity of the Site with the nearest one located about 50m to its north; and
- (d) except for eight open storage yards (with/without warehouse use) with valid planning permissions (No. A/YL-TYST/1001, 1003, 1017, 1039, 1102, 1105, 1111 and 1147), the remaining open storage/storage yards, warehouse, parking of vehicles and car parks in the vicinity are suspected unauthorized developments (UDs) subject to planning enforcement action.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 The following government department does not support the application:

Environment

10.2.1 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 about 50m to its north) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;
- (b) there was no environmental complaint concerning the Site received in the past three years; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix V**.

11. Public Comment Received During the Statutory Publication Period

On 21.3.2023, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction equipment and materials with ancillary office and maintenance workshop for a period of three years at the Site mainly zoned “O” (about 63%) with a minor portion zoned “R(A)3” (about 13%) and partly within an area shown as ‘Road’ (about 24%) on the OZP. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls partly within areas zoned “District Open Space” and “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” and partly within an area shown as ‘Road’ under Stage 2B of YLS Development. In this regard, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department, Project Manager (West), Civil Engineering and Development Department and Director of Leisure and Cultural Services have no objection to the application. As such, despite the applied use is not in line with the planning intentions of the “R(A)” and “O” zones and the planned road alignment of YLS Development, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area. Nonetheless, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects (**Appendix V**).

12.2 The surrounding area comprises predominantly 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.

- 12.3 The application is generally in line with TPB PG-No. 13G in that the Site falls within the YLS Development Area and previous planning approvals for similar open storage uses have been granted; the approval conditions of the last application have been complied with; and the technical concerns of relevant departments could be addressed through the imposition of approval conditions. As such, sympathetic consideration may be given to the application.
- 12.4 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 about 50m to its north) (**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 by DEP in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to minimise any potential environmental nuisances or to address the technical requirements of other 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 planning enforcement action. 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” and to keep the Site clean and tidy at all times.
- 12.5 Given that the Site had been involved in nine previous approvals for various open storage uses granted from 1998 to 2016 and 26 similar applications within/straddling the subject “O” and “R(A)3” zones and/or area shown as ‘Road’ have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. There was one similar application rejected by the Committee in 2020 mainly on the ground that the applied use was not in line with the then TPB PG-No. 13F in that the applicant could not demonstrate that the continued operation of the applied use would not generate adverse environmental impact on the surrounding areas. Such considerations are not applicable to the current application as there was no environmental complaint concerning the Site received by DEP in the past three years and the considerations in paragraph 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary open storage of construction equipment and materials with ancillary office and maintenance workshop could be tolerated for a period of three years.
- 13.2 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 5.5.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 8:00 p.m. and 7:00 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 ancillary maintenance work shall be carried out in open area, as proposed by the applicant, 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 5.8.2023;
- (f) the provision of fire extinguisher(s) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.6.2023;
- (g) 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 5.11.2023;
- (h) in relation to (g) 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 5.2.2024;
- (i) 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
- (j) if any of the above planning condition (e), (f), (g) or (h) 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 V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intentions of the "O" and "R(A)" zones which are primarily for provision of outdoor open-air public space and high-density residential developments respectively. No strong planning justification has been given in the submission to justify a departure from the planning intentions, 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 13.3.2023
Appendix Ia	Supplementary Planning Statement
Appendix Ib	SI received on 14.3.2023
Appendix Ic	FI received on 18.4.2023
Appendix Id	FI received on 26.4.2023
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	The Good Practice Guidelines for Open Storage Sites
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout 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
MAY 2023**