

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

**APPLICATION NO. A/YL-TYST/1210**

- Applicant** : Merrily Development and Investment Company Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1449 (Part), 1450 (Part), 1453, 1454 (Part), 1458 (Part) and 1459 (Part) in D.D. 119, Yuen Long, New Territories
- Site Area** : 2,870 m<sup>2</sup> (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
- Zonings** : “Open Space” (“O”) (about 54%); and  
Area shown as ‘Road’ (about 46%)
- Application** : Temporary Warehouse for Storage of Furniture, Electronic Goods and Construction Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of furniture, electronic goods and construction materials 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 “O” zone, 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 Kung Um Road to its east via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for storage of furniture (including bed, desk and table), packed electronic goods (including tablets, mobile phone and computer) and construction materials (including pipes, tiles and sanitary wares). No dismantling, cleaning, repairing, spraying, other workshop activities and storage of used electronic goods and recyclable materials will be carried out at

the Site. No heavy goods vehicles exceeding 24 tonnes, including container tractor/trailer, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, drainage 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 involved in five previous applications for temporary warehouse and open storage uses approved by the Rural and New Town Planning Committee (the Committee) of the Board from 2012 to 2020. Compared with the last application (A/YL-TYST/1037), the current application is submitted by the same applicant for the same use at the same site with the same development parameters and layout. The major development parameters of the current application are summarised as follows:

Site Area	About 2,870 m <sup>2</sup>
Total Floor Area (Non-domestic)	About 2,198 m <sup>2</sup>
No. and Height of Structures	4 • for warehouse, site office, toilet and guard room (3.5 – 10m, 1-2 storey(s))
No. of Parking Space	Nil
No. of Loading/ Unloading Spaces	2 (for medium goods vehicle) (11 m x 3.5 m each)
Operation Hours	9:00 a.m. to 5:00 p.m., with no operation on Sundays and Public Holidays

- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 16.3.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 3.4.2023\* (**Appendix Ia**)
  - (c) FI received on 26.4.2023\* (**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 (**Appendix I**). They can be summarised as follows:

- (a) the Site has been subject of five previous planning permissions since 2012. A number of open storage and port back-up uses have been approved by the Board in the vicinity of the Site and their planning circumstances are similar to that of the Site;
- (b) the temporary use would not jeopardise the long-term planning intention. The applied use is compatible with the surrounding environment. Besides, there is a shortage of land for open storage use in TYST; and
- (c) there will be minimal traffic, environmental 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 five previous applications, including four approved applications (No. A/YL-TYST/615, 786, 818 and 908) for various temporary open storage uses not relevant to the current application, and an approved application (No. A/YL-TYST/1037) 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/1037 for temporary warehouse for storage of furniture, electronic goods and construction materials was approved with conditions for a period of three years by the Committee in 2020 mainly on the considerations that the proposal was not incompatible with the surrounding uses; the proposal 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/1037 was subsequently revoked in 2022 due to non-compliance with time-limited approval conditions regarding submission and implementation of FSIs proposal.

### **6. Similar Applications**

There are two similar applications (A/YL-TYST/991 and 1164) for temporary warehouse use within/straddling the subject “O” zone<sup>1</sup> in the past five years which were approved with conditions by the Committee in 2019 and 2022 respectively, mainly on similar considerations as those in paragraph 5.2 above. However, the planning permission (A/YL-TYST/991) was subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1a**.

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<sup>1</sup> Application site (No. A/YL-TYST/991) was zoned “Undetermined” on previous version of the OZP at the time of consideration by the Committee.

## **7. Planning Intention**

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. 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 (**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-4b**).

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, vehicle parking, chicken sheds, a pond, agricultural land, unused land and vacant land/structures;
- (b) there are temporary residential structures in the vicinity of the Site with the nearest one located to its immediate southwest; and
- (c) except for two open storage yards (with/without vehicle repair workshop) and one warehouse with valid planning permissions (No. A/YL-TYST/1008, 1068 and 1124) as well as another warehouse in its southeast, the remaining open storage/storage yards, vehicle repair workshop, vehicle parking and chicken sheds in the vicinity are suspected unauthorized developments (UDs) 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 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 the immediate southwest of the Site) (**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 IV**.

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

On 24.3.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual alleging that the previous planning permissions were revoked due to non-compliance with approval conditions and such consideration should be taken into account by the Board (**Appendix V**).

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

- 11.1 The application is for temporary warehouse for storage of furniture, electronic goods and construction materials for a period of three years at the Site partly zoned “O” (about 54%) and partly within an area shown as ‘Road’ (about 46%) on the OZP. Under the Revised Recommended Outline Development Plan of Yuen Long South (YLS) Development, the Site falls partly within areas zoned “District Open Space” 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 intention of “O” zone 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 IV**).
- 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, 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 southwest) (**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 12.2 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”.

- 11.4 The Site is subject to a previous application (No. A/YL-TYST/1037) for the same use as the current application which was approved with conditions for a period of three years by the Committee in 2020. However, the planning permission was revoked on 1.12.2022 due to non-compliance with time-limited approval conditions regarding submission and implementation of FSIs proposal. The current application is submitted by the same applicant with the same layout and development parameters as the last application. The applicant has submitted FSIs proposal to support the current application and Director of Fire Services has no in-principle objection to the application. 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 the Site is involved in one previous approval for the same use and two similar applications within/straddling the subject “O” zone were approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.6 There is one public comment raising concern on 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 warehouse for storage of furniture, electronic goods and construction materials 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 5.5.2026. 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 dismantling, cleaning, repairing, spraying, other workshop activities and storage of used electronic goods and recyclable materials, as proposed by the

applicant, shall be carried out on the Site at any time during the planning approval period;

- (d) no heavy goods vehicles exceeding 24 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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;
- (g) 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 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), (d) or (e) 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 (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 IV**.

12.3 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 intention of the "O" zone which is primarily for provision of outdoor open-air public space. 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.

### **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 attachments received on 16.3.2023
<b>Appendix Ia</b>	FI received on 3.4.2023
<b>Appendix Ib</b>	FI received on 26.4.2023
<b>Appendix II</b>	Previous and Similar Applications
<b>Appendix III</b>	Government Departments' General Comments
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Appendix V</b>	Public Comment
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Site Layout Plan
<b>Drawing A-3</b>	Proposed Drainage 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  
MAY 2023**