

RNTPC Paper No. A/YL-TYST/1211A
For Consideration by
the Rural and New Town
Planning Committee
on 8.9.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1211

- Applicant** : Wah Sang (China – Hong Kong) Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1343 (Part), 1344 (Part), 1345 (Part), 1349 (Part), 1351 (Part), 1353 (Part) in D.D. 119 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 3,046 m² (about) (including GL of about 46 m² (1.51%))
- 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 Warehouse for Storage of Food 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 food and electronic goods for a period of three 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 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 food (including milk powder, biscuits and canned food) and electronic goods (including brand new tablets, mobile phones and computers). No repairing, dismantling, spraying, cleansing, other workshop activities and storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or electronic waste will be carried out at the Site. Plans showing the vehicular access leading to the Site, 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 involved in 11 previous applications including two applications for temporary warehouse uses approved with conditions for a period of three years by the Rural and New Town Planning Committee (the Committee) of the Board in 2017 and 2020 respectively (details at paragraph 5 below).
- 1.4 Compared with the last application (A/YL-TYST/1030), the current application is submitted by the same applicant for the same use at the same site with similar 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/1030 (a)	Current Application No. A/YL-TYST/1211 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Food and Electronic Goods for a Period of 3 Years		---
Site Area	About 3,046 m ²		---
Total Floor Area (Non-domestic)	About 1,910 m ²	About 1,930 m ²	+20m ² (+1.05%)
No. and Height of Structures	5 • for warehouse, toilet, pump room and water tank, site office and guard room (3 to 11m, 1 to 2 storey(s))	6 • for warehouse, toilets, pump room and water tank, site office, guard room and electricity meter room (3 to 11m, 1 to 2 storey(s))	+1
No. of Parking Space(s)	Nil	2 (for private cars) (5 m x 2.5 m each)	+2
No. of Loading/Unloading Space	1 (for medium/heavy goods vehicle) (11 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 3.4.2023 **(Appendix I)**
 - (b) Further Information (FI) received on 18.4.2023* **(Appendix Ia)**
 - (c) FI received on 9.5.2023* **(Appendix Ib)**
 - (d) FI received on 10.5.2023* **(Appendix Ic)**
 - (e) FI received on 5.9.2023* **(Appendix Id)**
- * *accepted and exempted from publication requirement*

[FIs received on 10.7.2023, 25.7.2023, 14.8.2023 and 28.8.2023 were superseded and not attached]

- 1.6 On 19.5.2023, the Committee of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

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 is subject of eight previous planning permissions since 2001. A fresh planning application is submitted as there is a change in site layout and number of structures (i.e. an additional structure for toilet and electricity meter room use) at the Site;
- (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. A number of similar applications for 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;
- (c) 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 port back-up use in TYST; and
- (d) 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 Ping Shan Rural Committee and Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves 11 previous applications, including seven approved applications (No. A/YL-TYST/27, 153, 265, 370, 519, 655 and 827) and two rejected applications (No. A/YL-TYST/141 and 266) for various temporary open storage or waste recycling facilities with/without other uses, the consideration of which are not relevant to the current application, and two approved applications (No. A/YL-TYST/868 and 1030) for similar temporary warehouse uses submitted by the same

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

applicant 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 Applications No. A/YL-TYST/868 and 1030 were approved with conditions each for a period of three years by the Committee in 2017 and 2020 mainly on the considerations that the proposals were not incompatible with the surrounding uses; approval of the application on a temporary basis 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 above planning permissions were subsequently revoked in 2020 and 2022 respectively due to non-compliance with time-limited approval condition regarding the implementation of FSIs proposal.

6. Similar Applications

- 6.1 A total of 87 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 2018. 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 87 similar applications, 83 were approved by the Committee mainly on similar considerations as those in paragraph 5.2 above. However, the planning permissions for 21 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 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-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 open storage yards intermixed with residential structure, parking of vehicles, plant nurseries, graves, agricultural land, unused land and vacant land/structures;
- (b) there is a temporary residential structure located about 40m to the east of the Site; and
- (c) except for an open storage yard with valid planning permission (No. A/YL-TYST/1147), the remaining open storage yards and parking of vehicles 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 is a residential use in the vicinity (located about 40m to the east of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;
- (b) no 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 Comment Received During the Statutory Publication Period

On 11.4.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual alleging that the Site was subject to multiple revoked planning permissions 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 food 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, the Commissioner for Transport has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS, the Site falls partly within areas zoned “Residential – Zone 2 (with Commercial)” and “District Open Space” 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 open storage yards with one of them covered by valid planning permission (**Plan A-2**). While there is a temporary residential structure 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 is a sensitive receiver of residential use in the vicinity of the Site (located about 40m to its east) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected. However, no environmental complaint concerning the Site was received 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 involves two previous applications (No. A/YL-TYST/868 and 1030) for similar warehouse uses as the current application, which were approved with conditions each for a period of three years by the Committee in 2017 and 2020. However, the planning permissions were subsequently revoked in 2020 and 2022 respectively due to non-compliance with time-limited approval condition regarding the implementation of FSIs proposal. The current application is submitted by the same applicant as the two previous applications with similar site layout and development parameters. Nevertheless, the applicant has submitted FSIs proposal for the current application (**Drawing A-4**), which was considered acceptable by Director of Fire Services. 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 two previous approvals for similar warehouse uses have been granted to the Site and 83 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, sympathetic consideration may be given to the current application for the reasons stated in paragraph 11.4 above.

- 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 food 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 8.9.2026. 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 repairing, dismantling, spraying, cleansing, other workshop activities and storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or electronic waste, 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 8.12.2023;
- (f) 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 8.6.2024;

- (g) 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
- (h) if any of the above planning condition (e) or (f) 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 reason for rejection are suggested for Members' reference:

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 attachments received on 3.4.2023
Appendix Ia	FI received on 18.4.2023
Appendix Ib	FI received on 9.5.2023
Appendix Ic	FI received on 10.5.2023
Appendix Id	FI received on 5.9.2023
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-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 Site Photos
A-4b

PLANNING DEPARTMENT
SEPTEMBER 2023