

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1220

- Applicant** : Ms. CHAN Mei represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 1162 RP (Part) in D.D. 119 and Adjoining Government Land (GL), Kung Um Road, Yuen Long, New Territories
- Site Area** : 3,220 m² (about) (including GL of about 163 m² (5.1%))
- 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 Provisions and Rural Workshop with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of food provisions and rural workshop with ancillary office 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 (**Plan A-2**). According to the applicant, the applied use is for a warehouse for storage of non-inflammable edible goods (including edible oil, rice, noodles and canned food) and rural workshop (including bottling and canning of edible oil and packing of rice only). No nuisance-creating workshop activities would be carried out on the Site. Plans showing the vehicular access leading to the Site, site layout, landscape proposal and drainage 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/528, 595 and 1000) for temporary warehouse uses approved by the Rural and New Town

Planning Committee (the Committee) of the Board between 2011 and 2020 (details at paragraph 5 below).

- 1.4 Compared with the last application (A/YL-TYST/1000), the current application is submitted by a different applicant for similar warehouse use with different items stored and additional rural workshop use largely at the same site with the same 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/1000 (a)	Current Application No. A/YL-TYST/1220 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Materials and Household Materials with Ancillary Office for a Period of 3 Years	Temporary Warehouse for Storage of Food Provisions and Rural Workshop with Ancillary Office for a Period of 3 Years	Addition of Rural Workshop use and Change in Stored Items
Site Area	About 3,220 m ²		---
Total Floor Area (Non-domestic)	About 2,904 m ²		---
No. and Height of Structures	9 • for open shed for storage and workshop, shelters, offices, toilets, kitchen, water tank, store room and guard post (1.7 – 5m, 1-2 storey(s))		---
No. of Parking Space	Nil		---
No. of Loading/ Unloading Spaces	3 (for medium goods vehicle) (11 m x 3.5 m each)		---
Operation Hours	9:00 a.m. to 6:00 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 24.5.2023 (**Appendix I**)
- (b) Supplementary Information (SI) received on 1.6.2023 (**Appendix Ia**)
- (c) Further Information (FI) received on 30.6.2023* (**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 appendix to the Application Form, SI and FI (**Appendices I to Ib**). They can be summarised as follows:

- (a) the Site was the subject of a previous planning permission (i.e. A/YL-TYST/1000) for temporary warehouse for storage of construction materials and household materials with ancillary office. While the previous applicant had failed to comply with the approval conditions for the previous application, a new applicant has taken over the operation to continue her business due to land resumption in TYST and a fresh planning application is submitted as there is a change in stored items and an addition of rural workshop use at the Site. The new applicant commits to making efforts to comply with the approval conditions under the current application;
- (b) 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.13G);
- (c) a number of similar applications for storage and port back-up uses have been approved by the Board in the vicinity of the Site. The applied use is compatible with the surrounding environment; and
- (d) there will be minimal traffic, environmental, visual 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. 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 three previous applications (No. A/YL-TYST/528, 595 and 1000) for temporary warehouse for storage of construction materials and household materials with/without ancillary office covering largely the same site. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 All three applications were approved with conditions each for a period of three years by the Committee between 2011 and 2020 mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals were generally in line with the planning intention of the “U” zone; 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 between 2013 and 2022 due to non-compliance with time-limited approval conditions.

6. Similar Applications

- 6.1 A total of 86 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 86 similar applications, 82 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) abutting Kung Um Road to its east (**Plans A-2 and A-3**); and
 - (b) paved, fenced off and occupied by warehouse for storage of food 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, parking of trucks and vacant land/structures;
 - (b) there are scattered residential structures in the vicinity of the Site with the nearest one located about 6.6m to its northeast; and
 - (c) except for two open storage yards and two warehouses with valid planning permissions (No. A/YL-TYST/1019, 1062, 1079 and 1133), the remaining warehouses, open storage/storage yards and parking of trucks 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 about 6.6m to its northeast) (**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 2.6.2023, 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 Site was the subject of previous revocations 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 food provisions and rural workshop with ancillary office 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 “Education” and “Local Open Space” under Stage 3 of YLS Development and partly within an area shown as ‘Road’ under Stage 2B 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. 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.

- 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 scattered 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 about 6.6m to its northeast) (**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 is the subject of a previous application (No. A/YL-TYST/1000) for the same warehouse 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 20.5.2022 due to non-compliance with time-limited approval conditions on implementation of drainage and fire service installations proposals. The current application is submitted by a different applicant with the same layout and development parameters as the last application. The current applicant also commits to making efforts to comply with the approval conditions if the application is approved. Therefore, sympathetic consideration may be given to the current application.
- 11.5 Given that three previous approvals for temporary warehouse uses have been granted to the Site and 82 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 as it is submitted by a different applicant when compared with the last 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 warehouse for storage of food provisions and rural workshop with ancillary office 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 14.7.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 workshop activities except bottling and canning of edible oil and packing of rice, as proposed by the applicant, shall be carried out at the Site at any time during the planning approval period;
- (d) the implementation of the accepted drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.4.2024;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 14.1.2024;
- (g) in relation to (f) 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 14.4.2024;
- (h) if any of the above planning condition (a), (b), (c) 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
- (i) if any of the above planning condition (d), (f) or (g) 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 24.5.2023
Appendix Ia	SI received on 1.6.2023
Appendix Ib	FI received on 30.6.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Landscape Proposal
Drawing A-4	Drainage 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 A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2023**