

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1221

<u>Applicant</u>	:	Luen Shun Property Company Limited represented by Metro Planning and Development Company Limited
<u>Site</u>	:	Lots 1401 S.A & S.B & S.C & S.D (Part), 1402 (Part) and 1489 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
<u>Site Area</u>	:	1,280 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
<u>Zonings</u>	:	Area shown as ‘Road’ (about 66.3%); “Residential (Group (A)3)” (“R(A)3”) (about 32.8%); and <i>[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]</i> “Open Space” (“O”) (about 0.9%)
<u>Application</u>	:	Renewal of Planning Approval for Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary warehouse for storage of 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, 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 with valid planning permission under application No. A/YL-TYST/1040 (**Plans A-1b, A-2 and A-4**).
- 1.2 The Site is accessible from Kung Um Road via a local track to its east (**Plans A-2 and A-3**). According to the applicant, the applied use is for storage of packed electronic goods (including brand new tablets, mobile phones and computers). No

repairing, dismantling, cleaning or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, will be allowed to access 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 the subject of two previous applications (No. A/YL-TYST/257 and 1040). The last application No. A/YL-TYST/1040 for temporary warehouse use was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 15.9.2020 (details at paragraph 6 below). Compared with the last application, the current application is submitted by the same applicant for the same use 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/1040	Current Application No. A/YL-TYST/1221
Applied Use	Temporary Warehouse for Storage of Electronic Goods for a Period of 3 Years	
Site Area	About 1,208 m ²	
Total Floor Area (Non-domestic)	Not more than 505 m ²	
No. and Height of Structures	6 • for warehouses, site offices, guard room and toilet (3 – 7m, 1 storey)	
No. of Parking Space	Nil	
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7m x 3.5m)	
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 24.5.2023 (**Appendix I**)
- (b) Further Information (FI) received on 28.6.2023* (**Appendix Ia**)
- (c) FI received on 3.7.2023* (**Appendix Ib**)
- (d) FI received on 4.7.2023* (**Appendix Ic**)

* *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 was the subject of a previous planning permission (No. A/YL-TYST/1040) and the current proposal is the same as the last application;

- (b) the applicant has complied with all the approval conditions of the previous planning permission No. A/YL-TYST/1040;
- (c) the temporary use would not jeopardise the long-term planning intention of the area. 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 were similar to that of the Site. The development is not incompatible with these uses in the surroundings;
- (d) there is a shortage of land for port back-up purpose in TYST; and
- (e) 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. Town Planning Board Guidelines

The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34D) are relevant to the application. The relevant assessment criteria are at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

The Site is involved in two previous applications, including a rejected application (No. A/YL-TYST/257) for temporary vehicle repair workshop use which is not relevant to the current application and an approved application (No. A/YL-TYST/1040) for the same use as the current application. The last application No. A/YL-TYST/1040 was approved with conditions for a period of three years by the Committee on 15.9.2020 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. All the time-limited approval conditions under the last approved application No. A/YL-TYST/1040 have been complied with and the planning permission is valid until 15.9.2023. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

7. Similar Applications

A total of 18 similar planning applications¹ for various temporary warehouse uses within/straddling the subject “R(A)3” and “O” zones and area shown as ‘Road’ were approved with conditions each for a period of three years by the Committee in the past five years mainly on similar considerations as those in paragraph 6 above. However, the planning permissions for seven of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.

8. Planning Intentions

- 8.1 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.
- 8.2 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.

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

9.1 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 and fenced off and currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/1040 (**Plans A-2 to A-4**).

9.2 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, a vehicle repair workshop, car serving, chicken sheds, ponds, agricultural land, unused land and vacant land/structures;
- (b) there are scattered residential structures in the vicinity of the Site with the nearest located about 50m to its southwest;
- (c) except for five warehouses operating with valid planning permissions (No. A/YL-TYST/1055, 1131, 1162, 1164 and 1210) as well as another warehouse in its northeast, the remaining warehouses, open storage/storage yards, vehicle repair workshop, car serving and chicken sheds in the vicinity are suspected unauthorized developments subject to planning enforcement action.

¹ Nine of the application sites were zoned “Undetermined” on previous versions of the OZPs at the time of consideration by the Committee.

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 has adverse comments 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 Lots 1401 S.A, 1401 S.B, 1401 S.C, 1401 S.D and 1402 in D.D. 119 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by his department.

11. 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, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary warehouse for storage of electronic goods for a period of three years at the Site which mainly falls within an area shown as 'Road' (about 66.3%) and partly within an area zoned "R(A)3" (about 32.8%) with a minor portion zoned "O" (about 0.9%) on the OZP. Under the Revised Recommended Outline Development Plan of Yuen Long South (YLS) Development, the Site falls partly within areas zoned "Special Residential – Zone 1 – Public Rental Housing (with Commercial)", "Residential – Zone 1 (Subsidised Sale Flats with Commercial)" and "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 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 areas comprise 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 uses.

- 12.3 The application is generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/1040; all the time-limited approval conditions under the previous approval had been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.4 Concerned government departments, including the Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. However, 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 has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned 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 potential environmental nuisance on the surrounding areas.
- 12.5 Given that a previous approval for the same use has been granted to the Site in 2020 and 18 similar applications within/straddling the subject “R(A)3” and “O” zones and area shown as ‘Road’ have been approved in the past five years, approval of the current application is in line with the Committee’s previous decisions.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary warehouse for storage of electronic goods could be tolerated for a further 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 and be renewed from 16.9.2023 to 15.9.2026. 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 commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.12.2023;

- (c) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (d) if any of the above planning condition (a) or (c) 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
- (e) if the above planning condition (b) 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.

[Approval condition (a) is the same as that under the permission for application No. A/YL-TYST/1040; condition (b) is imposed as per Drainage Services Department's comment; condition (c) has been updated as per the current application; requirements for maintenance of landscaping, as well as restrictions on operation hours, specific activities and vehicle types have been removed as per the departments' latest requirement; and restriction on queuing and reverse movement of vehicles is now stipulated as an advisory clause.]

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 Member's reference:

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

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 with attachments received on 24.5.2023
Appendix Ia	FI received on 28.6.2023

Appendix Ib	FI received on 3.7.2023
Appendix Ic	FI received on 4.7.2023
Appendix II	Relevant Extracts of TPB PG-No. 34D
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Drawing A-1	Location Plan with Vehicular Access
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
Plan A-4	Site Photos

PLANNING DEPARTMENT
JULY 2023