

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1234

- Applicant** : Kin Keung Transportation Limited represented by Cyan Planning & Development Company
- Site** : Lot 551 (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 4,837 m² (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
- Zoning** : “Residential (Group D)”
[Restricted to a maximum plot ratio of 0.2 and maximum building height (BH) of 2 storeys (6m)]
- Application** : Proposed Temporary Warehouse and Open Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse and open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1**). 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 Site is largely formed, paved and vacant with some temporary structures (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the current application is to facilitate the relocation of their existing warehouse and open storage operation (in various lots in D.D. 125) affected by the land resumption and clearance exercise under the Second Phase Development of the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). Thus, there is an imminent need for the applicant to secure a relocation site to continue their affected operation. The proposed area of the current application (i.e. 4,837 m²) is of similar size as the area occupied by the current operation (i.e. about 5,100 m²).

- 1.3 The Site is accessible from Long Hon Road to its east via a local track (**Plans A-2 and A-3**). According to the applicant, the Site will predominantly be used for warehouse for storage of construction materials (including bricks, metal, pipes and cement, etc.), together with an area of about 390m² for open storage uses (i.e. about 8.1% of the Site). No inflammable items will be stored and no selling, repairing, spraying, cleansing, dismantling, vehicle cleaning or workshop activities will be carried out at the Site. Vehicle access to the Site will be by appointment. Plan showing the site layout submitted by the applicant is at **Drawing A-1**.
- 1.4 The Site is the subject of three previous applications. Two applications (No. A/YL-TYST/4 and 44) for temporary open storage of construction machinery and materials use were approved by the Board upon review and the Rural and New Town Planning Committee (the Committee) in 1997 and 1998 respectively and the other application (No. A/YL-TYST/119) for the same use was rejected by the Board upon review in 2001 (details at paragraph 6 below).
- 1.5 Compared with the last previously approved application (No. A/YL-TYST/44), the current application is submitted by a different applicant for warehouse and open storage use at a smaller site with different site layout and development parameters. The major development parameters of the current application are summarised as follows:

Site Area	About 4,837 m ²
Total Floor Area (Non-domestic)	About 3,194 m ²
No. and Height of Structures	8 • for warehouses, offices, shelter, toilet, electrical meter room and pumping room (3 to 9m, 1 to 2 storey(s))
No. of Parking Space	1 (for private car) (5 m x 2.5 m)
No. of Loading/ Unloading Spaces	4 (for medium goods vehicles) (11 m x 3.5 m each)
Operation Hours	8:00a.m. to 6:00p.m., with no operation on Sundays and public holidays

- 1.6 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 27.7.2023 (**Appendix I**)
- (b) Further Information (FI) received on 21.8.2023* (**Appendix Ia**)
- (c) FI received on 14.9.2023 (**Appendix Ib**)
[accepted but not exempted from publication requirement]
- (d) FI received on 27.10.2023* (**Appendix Ic**)
** accepted and exempted from publication requirement*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachments to the Application Form and FIs (**Appendices I to Ic**). They can be summarised as follows:

- (a) the current application aims to relocate an existing warehouse operation affected by the Second Phase Development of the HSK/HT NDA;
- (b) the applicant has conducted a site search process to identify suitable site for the relocation of the affected operation. Identifying a suitable relocation site was challenging. An alternative site in TYST area (i.e. Lots 755 RP and 756 RP (Part) in D.D. 121) had been reviewed but considered not appropriate;
- (c) the temporary use would not jeopardise the long-term planning intention. The proposed use is not incompatible with the surrounding environment; and
- (d) the applicant pledges to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. No adverse traffic and environmental impacts arising from the proposed use are envisaged.

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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was the subject of planning enforcement case (No. E/YL-TYST/908) against an unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). An Enforcement Notice (EN) was issued on 14.4.2023 requiring discontinuation of the UD by 14.6.2023. Recent site inspections revealed that the UD was largely discontinued. Compliance Notice for the EN was issued on 28.9.2023.

5. Previous Applications

- 5.1 The Site is involved in three previous applications including two approved applications (No. A/YL-TYST/4 and 44) and one rejected application (No. A/YL-TYST/119) for temporary open storage of construction machinery and materials use covering larger sites. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.

Approved Applications (2 Cases)

- 5.2 Applications No. A/YL-TYST/4 and 44 were approved with conditions each for a period of 12 months by the Committee and the Board upon review in 1997 and 1998 respectively mainly on the considerations that the proposals would not jeopardise the long-term development of the area; the concerns of relevant government departments could be addressed by imposing approval conditions; and the temporary use of the application sites would have little impact on the sensitive receivers.

Rejected Application (1 Case)

- 5.3 Application No. A/YL-TYST/119 was rejected by the Board upon review in 2001 mainly on the grounds that the proposal was not in line with the planning intention of the “R(D)” zone; the development was not compatible with the nearby residential structures; there were potential environmental and traffic impacts to the surrounding area; and there was other zoning (i.e. the “Undetermined” zone) in the OZP that could meet such demand for open storage use.

6. Similar Application

There is one similar planning application for temporary warehouse use (No. A/YL-TYST/1051) straddling the subject “R(D)” zone which was rejected by the Committee on 6.11.2020 mainly on the grounds that the proposed development was not in line with the planning intention of the “R(D)” and “Green Belt” (“GB”) zones; the development was not in line with the Town Planning Board Guidelines No.10 for Application for Development within the “GB” Zone; and approval of the application would set an undesirable precedent. Details of the application are summarised in **Appendix II** and the location of the site is shown on **Plan A-1**.

7. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

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

8.1 The Site is:

- (a) accessible from Long Hon Road to its east via a local track (**Plans A-2 and A-3**);
- (b) fenced off, largely formed and paved; and
- (c) largely vacant with some temporary structures (**Plans A-2 to A-4**).

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 vehicles/trailers, a vehicle repairing workshop, agricultural land, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 10m to its southwest; and
- (c) the warehouses, open storage/storage yards, parking of vehicles/trailers and the vehicle repairing workshop in the vicinity are suspected UDs subject to planning enforcement action.

9. Comments from Relevant Government Bureau/Departments

9.1 Apart from the government bureau/departments as set out in paragraphs 9.2 and 9.3 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 bureau supports the application:

Policy Support

9.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a brownfield operation for warehouse/open storage in Yuen Long, which would be displaced by the Second Phase Development of the HSK/HT NDA;
- (b) according to the applicant, a site search had been carried out with a view to identifying suitable site for re-establishment of its business and the Site is considered most suitable after the site search;
- (c) according to the concerned departments, the proposed use is not incompatible with the surrounding area and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. The Site falls within Stage 4 of Yuen Long South (YLS) Development, and it is noted that the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD) and Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD) have been consulted and they had no objection to the application taking into account the development programme of YLS Development. Approval of the current application on a temporary basis of three years should not jeopardise the implementation programme for YLS Development; and
- (d) in view of the above, from the perspectives of facilitating smooth clearance for the NDA project and providing operating space for displaced brownfield operations still needed by the community, the application is supported from the policy perspective.

9.3 The following government departments have adverse comments on the application:

Land Administration

9.3.1 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 the private lot 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.

Environment

9.3.2 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 about 10m to its southwest) (**Plan A-2**) and the proposed 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 Periods

During the statutory public inspection periods, one public comment was received from an individual commenting that the Board should ensure the approval conditions of applications are complied with (**Appendix VI**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse and open storage of construction materials for a period of three years at the Site zoned “R(D)” on the OZP. According to the applicant, the application is to facilitate the relocation of business operation affected by the Second Phase Development of HSK/HT NDA. The applicant has undergone a site selection process before identifying the Site as the most suitable relocation site. The Site is located in proximity to the current operation in HSK/HT, and the size of the Site (i.e. about 4,837 m²) is comparable to its current operation (i.e. about 5,100 m²). To facilitate smooth clearance for the HSK/HT NDA and provide operating space for displaced brownfield operations still needed by the community, SDEV supports the application from policy perspective.
- 11.2 Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls within an area zoned “Residential – Zone 5” under Stage 4 of YLS Development. The CE/CID, PlanD and PM(W), CEDD have no objection to the application. In view of the above and with the policy support from SDEV, approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.
- 11.3 The surrounding area comprises predominantly warehouses and open storage/storage yards (**Plan A-2**). While there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding area.
- 11.4 Relevant government departments, including the Commissioner for Transport (C for T), Chief Engineer/Mainland North, Drainage Services Department and Director of Fire Services have no objection to/no adverse comment on the application. Adverse traffic, fire safety and drainage impacts on the surrounding areas are not envisaged. 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 10m to its southwest) (**Plan A-2**) and the proposed use will cause traffic of heavy vehicles, environmental nuisance is expected. However, there is 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 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.

- 11.5 Besides, DLO/YL, LandsD has concerns on the application as there are unauthorized building works and/or uses on the Site which are already subject to lease enforcement actions. In this regard, the applicant indicates that they will take action to remedy the lease breaches as demanded by DLO/YL, LandsD (**Appendix Ib**).
- 11.6 Two previous approvals for temporary open storage use were granted to the Site in 1997 and 1998 respectively. Although there was one previous application (No. A/YL-TYST/119) for temporary open storage use rejected by the Board upon review in 2001 on the considerations stated in paragraph 5.3 above and one rejected similar application for temporary warehouse use straddling the subject “R(D)” zone in 2020 on the considerations stated in paragraph 6 above, the circumstances of the current application are different in that policy support was given by SDEV, only about 8.1% of the Site area is designated for open storage use, C for T has no adverse comment on the application on traffic aspects, and the Site is not located close to the “GB” zone. Approval of the current application is not in conflict with the previous decisions of the Committee/the Board.
- 11.7 There is one public comment raising concern on the application received as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.6 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 proposed temporary warehouse and open storage of 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 10.11.2026. 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 8:00 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 selling, repairing, spraying, cleansing, dismantling, vehicle cleaning or other workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.5.2024;
- (e) in relation to (d) above, the implementation of the 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 10.8.2024;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (g) 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 22.12.2023;
- (h) 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 10.5.2024;
- (i) in relation to (h) 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 10.8.2024;
- (j) if any of the above planning condition (a), (b), (c) or (f) 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
- (k) if any of the above planning condition (d), (e), (g), (h) or (i) 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 proposed use is not in line with the planning intention of the "R(D)" zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings and for low-rise, low-density residential development. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and

- (b) the applicant fails to demonstrate that the proposed 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 27.7.2023
Appendix Ia	FI received on 21.8.2023
Appendix Ib	FI received on 14.9.2023
Appendix Ic	FI received on 27.10.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	The Good Practice Guidelines for Open Storage Sites
Appendix VI	Public Comment
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**