

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1235

- Applicant** : KSK Engineering Consultant Limited represented by Miss HUI Hang Yu
- Site** : Various Lots in D.D. 119 and Adjoining Government Land (GL), Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 6,460 m² (about) (including GL of about 44.67 m² (0.69%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Residential (Group C)” (“R(C)”)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m)]
- Application** : Temporary Warehouse for Storage of Food Provisions for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of food provisions 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 Site is currently partly vacant and partly 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 (**Plan A-3**). According to the applicant, the applied use is for a warehouse for storage of food provisions (including individually packed food cans and fruits). No inflammable goods and frozen or fresh meat will be stored and no food processing, washing or cooking activities will be carried out at the Site. No staff will be stationed at the Site during night time and vehicle access to the Site will be by appointment. Plans showing the site layout and vehicular access leading to the Site submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

1.3 The Site is the subject of 12 previous applications, including one rejected application (No. A/YL-TYST/ 758) and five applications (No. A/YL-TYST/169, 285, 344, 377 and 555) for various temporary warehouse/storage uses approved by the Rural and New Town Planning Committee (the Committee) or the Board upon review between 2002 and 2011 (details at paragraph 5 below).

1.4 The major development parameters of the application are summarised as follows:

Site Area	About 6,460 m ²
Total Floor Area (Non-domestic)	About 4,685 m ²
No. and Height of Structure	1 • for food storage, office, toilet and pumping room (11m, 1 storey)
No. of Parking Spaces	2 (for private cars) (5 m x 2.5 m each)
No. of Loading/ Unloading Spaces	3 (for light goods vehicles) (7 m x 3.5 m each)
Operation Hours	8:00 a.m. to 8:00 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 3.8.2023 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 8.8.2023 **(Appendix Ia)**
 - (c) Further Information (FI) received on 18.8.2023* **(Appendix Ib)**
 - (d) FI received on 12.9.2023* **(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 Attachment to the Application Form (**Appendix I**). They can be summarised as follows:

- (a) the temporary use would not jeopardise the long-term planning intention and the applied use is not incompatible with the surrounding environment;
- (b) the applicant pledges to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”; and
- (c) The applied use would not induce adverse traffic and environmental impacts to the surroundings.

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. For the GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

4. **Background**

The Site was the subject of planning enforcement case (No. E/YL-TYST/901) against an unauthorized development (UD) involving storage use (**Plan A-2**). An Enforcement Notice was issued on 23.11.2022 requiring discontinuation of the UD by 23.2.2023. Subsequent site inspections revealed that the UD was largely discontinued. Compliance Notice was issued on 5.7.2023.

5. **Previous Applications**

- 5.1 The Site is involved in 12 previous applications, including six applications (No. A/YL-TYST/190, 217, 225, 240, 774 and 805) for various temporary uses not relevant to the current application, as well as five approved applications (No. A/YL-TYST/169, 285, 344, 377 and 555) and one rejected application (No. A/YL-TYST/758) for similar warehouse uses 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**.

Approved Applications

- 5.2 Applications No. A/YL-TYST/169, 285, 344, 377 and 555 for various temporary warehouse uses were approved with conditions each for a period of one to three years by the Committee or the Board upon review between 2002 and 2011 mainly on the considerations that the conversion of the pigsty on the site to a covered warehouse might represent an improvement to the surrounding environment (for A/YL-TYST/169); there was no programme to realise the planned residential use and it was reasonable to make some beneficial use of the site in the interim for a shorter approval period; and the proposals were not incompatible with the surrounding areas. However, the planning permissions for two of them (A/YL-TYST/169 and 285) were subsequently revoked in 2003 and 2006 respectively due to non-compliance with time-limited approval conditions.

Rejected Application

- 5.3 Application No. A/YL-TYST/758 for temporary warehouse for storage of building material (ceramic tiles) was rejected by the Committee in 2015 on the grounds that the applied use was not in line with the planning intention of the "R(C)" zone and the development would generate adverse environmental impact on the residential use in the vicinity of the site.

6. **Similar Applications**

- 6.1 There are two similar planning applications for temporary warehouse use (No. A/YL-TYST/1232 and 1233) within the subject "R(C)" zone which was approved

with conditions for a period of three years by the Committee on 25.8.2023 and 11.9.2023 respectively mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term development of the area; the applied use was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. Details of the applications are summarised at **Appendix II** and the locations of the sites are shown on **Plan A-1a**.

- 6.2 For Members' information, Application No. A/YL-TYST/1236 for temporary warehouse for storage of construction materials for a period of three years straddling the same "R(C)" zone will also be considered at this meeting (**Plan A-1a**).

7. Planning Intention

The planning intention of the "R(C)" zone is primarily for low-rise, low-density residential developments where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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, partly vacant and partly occupied by the applied use without valid planning permission.

- 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, car servicing, car repair workshops, agricultural land, unused land and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate south; and
- (c) the warehouses, open storage/storage yards, car servicing and car repair workshops in the vicinity are suspected UD's 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 has adverse comment 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 1301, 1306 and 1309 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.

10. Public Comment Received During the Statutory Publication Period

On 11.8.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concern that the Board should take into consideration the revocation history of the previous planning applications as non-compliance with approval conditions may lead to contamination of the stored food (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of food provisions for a period of three years at the Site zoned “R(C)” on the OZP. The Site falls within the possible expansion of the Yuen Long South (YLS) Development Area which is currently under review together with YLS Third Phase Development. In this regard, 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. DLO/YL, LandsD also advises that there is no development proposal involving the Site. As such, despite the applied use is not in line with the planning intention of “R(C)” zone, approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.
- 11.2 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.
- 11.3 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 except DLO/YL, LandsD. 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 it will take action to remedy the lease breaches as demanded by DLO/YL, LandsD upon approval of the current application (**Appendix Ic**). 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 12.2 below to address the technical requirements of concerned government 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 any potential environmental impact on the surrounding areas.

- 11.4 Given that five previous approvals for temporary warehouse uses have been granted to the Site and two similar applications within the subject “R(C)” zone have been approved in the past five years, approval of the current application is generally in line with the previous decisions of the Committee/the Board. While there was one previous application (No. A/YL-TYST/758) for temporary warehouse use rejected by the Committee in 2015 mainly on the grounds that the applied use was not in line with the planning intention of the “R(C)” zone and the development would generate adverse environmental impact on the residential use in the vicinity of the site, the circumstances of the current application are different in that DEP has no adverse comment on the application from environmental aspect.
- 11.5 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 11.4 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 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 22.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) 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 22.3.2024;
- (b) in relation to (a) 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 22.6.2024;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 22.3.2024;

- (e) in relation to (d) 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 22.6.2024;
- (f) if the above planning condition (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
- (g) if any of the above planning condition (a), (b), (d) or (e) 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 is suggested for Members' reference:

the applied use is not in line with the planning intention of the "R(C)" zone, which is primarily for low-rise and low-density residential developments. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

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 3.8.2023
Appendix Ia	SI received on 8.8.2023
Appendix Ib	FI received on 18.8.2023
Appendix Ic	FI received on 12.9.2023
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

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
SEPTEMBER 2023**