

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1238

- Applicant** : Merrily Development and Investment Company Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1516, 1517 (Part) and 1518 in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 1,588 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Residential (Group A) 3” (“R(A)3”) (about 46%);
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]
- “Government, Institution or Community (1)” (“G/IC(1)”) (about 21%); and
[Restricted to a maximum building height of 8 storeys]
- area shown as ‘Road’ (about 33%)
- Application** : Temporary Warehouse for Storage of Construction Machinery and Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of construction machinery and 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 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 mainly occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).
- 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, construction machinery and materials (including barricades, handy tools, electric generator and metal rods for assembling

mobile working platform, etc.) will be stored at the Site. No open storage, dismantling or other workshop activities will be carried out at the Site. No medium or heavy goods vehicles, including container trailers/tractors, will enter the Site. Plans showing the site layout, vehicular access leading to the Site, drainage proposal 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 a previous application (No. A/YL-TYST/1130) for temporary warehouse use approved by the Rural and New Town Planning Committee (the Committee) of the Board on 14.1.2022 (details at paragraph 6 below). Compared with the last application, the current application is submitted by a different applicant for the same use at the same site with the same layout and development parameters. The major development parameters of the current application are summarised as follows:

Site Area	About 1,558 m ²
Total Floor Area (Non-domestic)	About 514 m ²
No. and Height of Structures	5 for warehouses, site office, toilet and electricity meter room (3 – 6.5m, 1 storey)
No. of Parking Space	Nil
No. of Loading/ Unloading Space	1 (for light goods vehicle) (7m x 3m)
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 28.8.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 29.8.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 18.10.2023 (**Appendix Ib**)
[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 Application Form and FI (**Appendices I and Ib**). They can be summarised as follows:

- (a) 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.13G) and the Site is subject to a previous planning permission (No. A/YL-TYST/1130);
- (b) the operator under the previous application did not have adequate resources to implement the drainage proposal. The current applicant has rented the Site to a new contractor and pledges to implement the drainage proposal accordingly for the current application. The applied use would support the construction projects in the surrounding areas;

- (c) the temporary use would not jeopardise the long-term planning intention. A number of warehouse, 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. The applied use is compatible with the surrounding environment; 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 by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

The Site is involved in a previous application (No. A/YL-TYST/1130)¹ for the same use as the current application covering the same site. The application was approved with conditions for a period of three years by the Committee on 14.1.2022 mainly on the considerations that the development was not incompatible with the surrounding uses; approval of the application on a temporary basis would not frustrate 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 permission was subsequently revoked on 14.7.2023 due to non-compliance with approval conditions regarding the submission and implementation of a revised drainage proposal. Details of the application are summarised in **Appendix II** and the location of the site is shown on **Plan A-1**.

6. Similar Applications

A total of 12 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “R(A)3” and “G/IC(1)” zones and area shown as ‘Road’ were approved with conditions by the Committee in the past five years mainly on similar considerations as those in paragraph 5 above. However, the planning permissions for six of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

¹ Compared with the previous application (No. A/YL-TYST/1130), the current application is submitted by a different applicant.

7. Planning Intentions

- 7.1 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.
- 7.2 The planning intention of the “G/IC” zone is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organisations providing social services to meet community needs, and other institutional establishments.

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

8.1 The Site is:

- (a) accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**);
- (b) paved and occupied by the applied use without valid planning permission (**Plans A-2 to A-4**).

8.2 The surrounding areas have the following characteristics (Plans A-2 and A-3**):**

- (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, parking of vehicles/trucks, car service, vehicle repair workshops, a plant nursery, an orchard, agricultural land, pond, unused land and vacant land/structures;
- (b) there are scattered residential structures (some of them are temporary structures) in the vicinity of the Site with the nearest one located to its immediate east; and
- (c) except for three warehouses and open storage yards with valid planning permissions (No. A/YL-TYST/1081, 1162 and 1213), the remaining open storage/storage yards, warehouses, parking of vehicles/trucks, car service and vehicle repair workshops in the vicinity are suspected unauthorized developments subject to planning enforcement action.

9. Comments from Relevant Government Departments

All government 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 provide in **Appendices III** and **IV** respectively.

10. Public Comment Received During the Statutory Publication Period

On 5.9.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual questioning whether approval of the application would discourage relocation of the brownfield operations and hinder the long-term development of the area (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction machinery and construction materials for a period of three years at the Site partly zoned “R(A)3” (about 46%) and “G/IC(1)” (about 21%) and partly within an area shown as ‘Road’ (about 33%) 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 – Public Rental Housing (Zone 1) (with Commercial)”, “Government” and “Residential – Zone 1 (Subsidised Sales Flats) (with Commercial)” 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 (**Appendix IV**).
- 11.2 The surrounding area comprises predominantly open storage/storage yards and warehouses 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.
- 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. 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 potential environmental nuisance on the surrounding areas.
- 11.4 Given that the Site is involved in one previous approval for the same use and 12 similar applications within/straddling the subject “R(A)3” and “G/IC(1)” zones were approved by the Committee in the past five years, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 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 11.4 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 construction machinery and 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 27.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 27.4.2024;
- (b) in relation to (a) above, the implementation of the revised 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 27.7.2024;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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 27.7.2024;
- (e) 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
- (f) if any of the above planning condition (a), (b) or (d) 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:

the applied use is not in line with the planning intentions of the "R(A)" and "G/IC" zones which are primarily for high-density residential developments and provision of Government, institution or community facilities respectively. No strong

planning justification has been given in the submission to justify a departure from the planning intentions, 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 28.8.2023
Appendix Ia	SI received on 29.8.2023
Appendix Ib	FI received on 18.10.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Site Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**