

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1239

- Applicant** : Mr. CHEUNG Hang Choi represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 120 and D.D. 121 and Adjoining Government Land (GL), Shan Ha Tsuen, Yuen Long, New Territories
- Site Area** : 7,428 m² (about) (including GL of about 95 m² (1.3%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Residential (Group A) 3” (“R(A)3”) (about 97.5%); and
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]
“Open Space” (“O”) (about 2.5%)
- Application** : Temporary Warehouse and Open Storage of Construction Materials, Scrap Metal and Vehicle Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and open storage of construction materials, scrap metal and vehicle parts 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 occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Shan Ha Road to its west via a local track (**Plans A-2 and A-3**). According to the applicant, construction materials (including pipes and metal, etc.), scrap metal and vehicle parts (including GPS, audio systems, seat covers, etc.) will be stored at the Site. No storage of plastic, workshop activities and storage or handling (including loading and unloading) of used electrical appliances, computer/electronic parts (including cathode-ray tubes) or any other types of electronic waste will be carried out at the Site. No heavy goods vehicles, including container trailers/tractors, will be allowed to enter the Site. Plans showing the

vehicular access leading to the Site, proposed layout plan, as-built drainage plan and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is involved in 11 previous applications including nine applications for various temporary warehouse and/or open storage uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2000 and 2021 (details at paragraph 6 below).
- 1.4 Compared with the last application (No. A/YL-TYST/1114), the current application is submitted by a different applicant for similar warehouse and open storage use at the same site with different 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/1114 (a)	Current Application No. A/YL-TYST/1239 (b)	Difference (b)-(a)
Proposed/ Applied Use(s)	Proposed Temporary Warehouse and Open Storage for Storage of Construction Machinery and Construction Materials for a Period of 3 Years	Temporary Warehouse and Open Storage of Construction Materials, Scrap Metal and Vehicle Parts for a Period of 3 Years	Change in Stored Items
Site Area	About 7,428 m ²		---
Total Floor Area (Non-domestic)	About 2,221 m ²	About 906 m ²	-1,315 m ² (-59.2%)
No. and Height of Structures	10 • for warehouses, site office and toilet (6 - 7.5m, 1-2 storey(s))	5 • for warehouses, site office and toilet (3 - 7.5m, 1-2 storey(s))	-5
No. of Parking Spaces	2 (for private cars) (5m x 2.5m each)		---
No. of Loading/ Unloading Space(s)	1 (for medium goods vehicle) (11m x 3.5m)	2 (for medium goods vehicles) (11m x 3.5m each)	+1
Operation Hours	7:00 a.m. to 7:00 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 28.8.2023 (**Appendix I**)
- (b) Supplementary Information (SI) received on 29.8.2023 (**Appendix Ia**)
- (c) Further Information (FI) received on 19.10.2023 (**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 Application Form and FI (**Appendices I and Ib**). They can be summarised as follows:

- (a) the Site is the subject of previous planning permissions. The operator under the previous application did not follow the approved layout plan and failed to implement the FSIs proposal. A fresh planning application is submitted as there is a change in stored items at the Site. The applicant pledges to comply with the planning conditions upon approval of the 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) the temporary use would not jeopardise the long-term planning intention. 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 are similar to that of the Site. The applied use is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up use in TYST; and
- (d) there will be minimal traffic, environmental, noise 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. For the GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Town Planning Board Guidelines

TPB PG-No. 13G is relevant to the application. The Site falls within Yuen Long South (YLS) Development Area under TPB PG-No. 13G promulgated by the Board on 14.4.2023. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in 11 previous applications (No. A/YL-TYST/110, 146, 282, 416, 458, 516, 588, 731, 895, 1058 and 1114) for various temporary warehouse and/or open storage uses covering different extents of the Site¹. Details of the

¹ All the application sites (except applications No. A/YL-TYST/1058 and 1114) were zoned “Undetermined” on previous versions of OZP at the time of consideration by the Committee.

applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

Approved applications (9 Cases)

- 6.2 Applications No. A/YL-TYST/110, 282, 416, 458, 516, 588, 731, 895 and 1114 for various temporary warehouse and/or open storage with/without ancillary workshop uses were approved with conditions by the Committee between 2000 and 2021 mainly on the considerations that the proposals were generally in line with the then TPB PG-No. 13 (or its later versions); the development was not incompatible with the surrounding areas; approval of the applications on a temporary basis would not frustrate the long-term development of the area; and departmental concerns could be addressed by imposing approval conditions. However, the planning permissions for five of them were subsequently revoked due to non-compliance with approval conditions².

Rejected applications (2 Cases)

- 6.3 Application No. A/YL-TYST/146 for temporary storage of building materials for a period of three years was rejected by the Committee in 2001 mainly on the considerations that there were potential adverse environmental and drainage impacts and the vehicular access arrangement was unclear.
- 6.4 Applications No. A/YL-TYST/1058 for temporary warehouse and open storage for storage of recyclable materials (plastic and metal) with ancillary workshop for a period of three years was rejected by the Committee in 2020 mainly on the grounds that the applied use was not in line with the then TPB PG-No. 13F in that the applicant could not demonstrate that the continued operation of the applied use would not continue to generate adverse environmental impact on the surrounding areas.

7. Similar Applications

A total of 27 similar planning applications for various temporary warehouse and/or open storage uses with/without other uses within/straddling the subject “R(A)3” and “O” zones were approved with conditions by the Committee in the past five years mainly on similar considerations as those in paragraph 6.2 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

² The planning permission for last previous application (No. A/YL-TYST/1114) was revoked on 24.6.2023 due to non-compliance with approval condition regarding the implementation of FSIs proposal. Compared with the previous application, the current application is submitted by a different applicant for similar warehouse and open storage use at the same site.

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-4b)

9.1 The Site is:

- (a) accessible from Shan Ha Road to its west via a local track (**Plans A-2 and A-3**);
- (b) paved, fenced off and occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).

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

- (a) comprise predominantly open storage/storage yards with residential structures, shrubland, unused land and vacant land/structures;
- (b) there are residential structures to the west of the Site with the nearest one located about 30m away in an area zoned “Village Type Development” (“V”) on the OZP. To the further south of the Site is an area zoned “V(1)” on the OZP; and
- (c) except for two open storage yards with valid planning permissions (No. A/YL-TYST/1126 and 1203), the remaining open storage/storage yards in the vicinity are suspected unauthorized developments (UDs) subject to planning enforcement action.

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 provide in **Appendices IV and V** respectively.

10.2 The following government department does not support the application:

Environment

10.2.1 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 30m to its west) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected;

- (b) there were nine substantiated environmental complaints concerning the Site received in 2020 and 2021, which were related to machine noise, odour nuisance and water pollution emitting from a past plastic recycling workshop operation at the Site. According to the site inspection conducted by his department, no malodour was detected around the plant as well as in the vicinity, no waste water was discharged into the periphery, no abnormal operation noise was heard, and no suspected chemical waste was found inside and in the periphery of the Site. There is no prosecution record and ongoing prosecution case for the Site; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix V**.

11. Public Comments Received During the Statutory Publication Period

- 11.1 On 5.9.2023, the application was published for public inspection. During the statutory public inspection period, a total of 92 public comments were received and all of them raise objections to/have adverse comments on the application. A full set of public comments will be deposited at the meeting for Members' inspection.
- 11.2 The objections/adverse comments are received from a villager of Shan Ha Tsuen and various individuals (extracted samples at **Appendices VII-1 to VII-3**). Amongst which, 89 comments are based on a set of standard letter. The objections/adverse views are mainly on the grounds that the applied use is incompatible with the village type developments nearby; the brownfield operations under previous applications had repeatedly failed to comply with planning conditions and persistently generated adverse environmental nuisances (such as pungent smell from the melting of plastics) to the nearby residences; the previous operations were the subject of two fire accidents and the applied use would generate fire safety concerns to the surrounding area; the use of heavy vehicles will further strain the capacity of the local road network, generate dust along the access road and create public hygiene and drainage concerns; and approval of the application will hinder the long-term development of the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary warehouse and open storage of construction materials, scrap metal and vehicle parts for a period of three years at the Site mainly zoned "R(A)3" (about 97.5%) with a minor portion zoned "O" (about 2.5%) on the OZP. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls partly within areas zoned "Special Residential – Zone 1 – Public Rental Housing (with Commercial)", "Residential – Zone 1 (Subsidised Sales Flats with Commercial)" and "Local Open Space" under Stage 2B of YLS Development. 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. 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 area comprises predominantly open storage/storage yards with some of them covered by valid planning permissions (**Plan A-2**). While there are residential structures to the west of the Site, the applied use is generally not incompatible with the surrounding uses.
- 12.3 The application is generally in line with TPB PG-No. 13G in that the Site falls within the YLS Development Area and previous planning approval for similar warehouse and open storage use has been granted; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and the technical concerns of relevant departments could be addressed through the imposition of approval conditions.
- 12.4 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 30m to its west) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected. While there were some substantiated environmental complaints concerning the Site received by DEP in the past three years, they were related to a previous recycling workshop at the Site, which had ceased operation. The current application is submitted by a different applicant and no workshop activity is proposed under the current application. The applicant has committed to comply with all the planning conditions to be imposed. Relevant approval conditions are recommended in paragraph 13.2 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 (including uses and activities not covered by the current application) 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.
- 12.5 Given that nine previous approvals for various warehouse and/or open storage uses have been granted to the Site from 2000 to 2021 and 27 similar applications within/straddling the subject “R(A)3” and “O” zones have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. There were two previous applications rejected by the Committee in 2001 and 2020 respectively mainly on the grounds that the applicants could not demonstrate that the continued operation of the applied use would not generate adverse drainage and environmental impacts on the surrounding area and the vehicular access arrangement was unclear. Such considerations are not applicable to the current application as the Chief Engineer/Mainland North, Drainage Services Department and Commissioner for Transport have no objection/no adverse comment on the application and the considerations in paragraph 12.4 above are relevant.
- 12.6 There are 92 public comments objecting to/having adverse comments on the application as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary warehouse and open storage of construction materials, scrap metal and vehicle parts could be tolerated for a 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 until 27.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 7:00 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 and storage and handling of used electrical appliances, computer/electronic parts (including cathode-ray tubes) and electronic waste, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (d) no heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 27.1.2024;
- (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 8.12.2023;
- (h) the submission of a revised 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 27.4.2024;
- (i) the implementation of the revised 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;

- (j) if any of the above planning condition (a), (b), (c), (d) 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
- (k) if any of the above planning condition (f), (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 V**.

13.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the applied use is not in line with the planning intentions of the "R(A)" and "O" zones which are primarily for provision of high-density residential developments and 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; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding area.

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 28.8.2023
Appendix Ia	SI received on 29.8.2023
Appendix Ib	FI received on 19.10.2023
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	The Good Practice Guidelines for Open Storage Sites

Appendices	Public Comments
VII-1 to VII-3	
Drawing A-1	Vehicular Access Plan
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
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2023**