

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1266

- Applicant** : Mr. TSUI Yat Wah represented by Metro Planning & Development Company Limited
- Site** : Various Lots in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 6,800m² (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** : “Undetermined” (“U”)
- Application** : Temporary Warehouse for Storage of Food and Electronic Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of food and electronic goods for a period of three years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, all uses or developments within the “U” zone except those specified in the Notes require 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-4**).
- 1.2 The Site is accessible from Kung Um Road to its northeast via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the applied use is for storage of food (including milk powder, biscuits and canned food) and well-packed electronic goods (including brand new tablets, mobile phones and computers). No open storage, repairing, cleaning, dismantling, other workshop activities and handling/storage of electronic wastes and cathode-ray tube will be carried out at the Site. Plans showing the vehicular access leading to the Site, tree preservation proposal with site layout and as-built drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.3 The Site is involved in four previous applications including two applications for temporary warehouse use approved by the Rural and New Town Planning

Committee (the Committee) of the Board in 2017 and 2020 respectively (details at paragraph 5 below).

- 1.4 Compared with the last application (No. A/YL-TYST/1009), 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 6,800 m ²
Total Floor Area (Non-domestic)	Not more than 4,220 m ²
No. and Height of Structures	9 • for warehouse, guard room, electricity meter room, water tank, pump room, site offices, storage and toilet (3.5 – 10m, 1-2 storey(s))
No. of Parking Space	Nil
No. of Loading/ Unloading Spaces	1 (for medium/heavy goods vehicle) (11 m x 3.5 m) 1 (for container trailer) (16 m x 3.5 m)
Operation Hours	9:00 a.m. to 5:00 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 16.4.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 23.5.2024 (**Appendix Ia**)
[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 is the subject of previous planning permissions and has been occupied by the applied use since 2020. The time-limited approval conditions under the last planning application had been complied with. There is a change in tenancy of the Site and a fresh application is submitted;
- (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 those of the Site. The development 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. All the stored items will be housed within an enclosed structure and no operation will be held during sensitive hours.

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. 31B) by posting site notice and sending notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The warehouse/storage use on the Site would be subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site is involved in four previous applications, including two approved applications (No. A/YL-TYST/857 and 1009) for temporary warehouse use covering the same site as the current application. The remaining two applications (No. A/YL-TYST/562 and 708) are for temporary open storage use, and their considerations are not relevant to the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1**.
- 5.2 Applications No. A/YL-TYST/857 and 1009 were approved with conditions each for a period of three years by the Committee in 2017 and 2020 respectively mainly on the considerations that the proposal was not incompatible with the surrounding areas; approval of the application on a temporary basis would not frustrate the long-term development of the area; and the departmental concerns could be addressed by imposing approval conditions. However, the planning permission of A/YL-TYST/857 was subsequently revoked due to non-compliance with approval conditions. As for the last application (No. A/YL-TYST/1009), all the time-limited approval conditions have been complied with and the planning permission lapsed on 27.6.2023.

6. Similar Applications

- 6.1 A total of 80 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 80 similar applications, 78 were approved by the Committee between 2019 and 2024 mainly on similar considerations as those in paragraph 5.2 above. However, the planning permissions for 25 of them were subsequently revoked due to non-compliance with approval conditions.

- 6.3 The remaining two applications for temporary warehouse use were rejected by the Committee in 2019 and 2021 respectively on the grounds that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses, thus nullifying the statutory planning control system.

7. Planning Intention

- 7.1 The planning intention of the “U” zone is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 7.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”, this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

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 northeast via a local track (**Plans A-2 and A-3**);
 - (b) mostly paved and fenced off; and
 - (c) currently 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 warehouses and open storage/storage yards with a residential structure, hobby farm, graves and unused land;
 - (b) there is a residential structure located about 35m to its southeast; and
 - (c) except for one open storage yard with valid planning permission (No. A/YL-TYST/1227), the remaining warehouses, open storage/storage yards and hobby farm in the vicinity are suspected unauthorized developments (UDs) 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 does not support the application:

Environment

9.2.1 Comments of the Director of Environmental Protection (DEP):

- (a) he does not support the application as there is residential use in the vicinity (located about 35m to its southeast) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected;
- (b) no environmental complaint concerning the Site has been 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 Period

On 26.4.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concerns that storage of food requires high level of hygiene and the Board should take into account whether all the time-limited approval conditions of the last application have been complied with (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for temporary warehouse for storage of food and electronic goods for a period of three years at the Site zoned “U” on the OZP. The applied use is generally not in conflict with the planning intention of the “U” zone. The area is designated as “U” zone mainly due to concerns of the capacity of Kung Um Road. In this regard, the Commissioner for Transport (C for T) has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls within an area partly zoned “Special Residential – Public Rental Housing (Zone 2) (with Commercial)” and “Other Specified Uses (Hillside River Corridor with Scenic Cycle Track)” and partly within an area shown as ‘Road’ under Stage 3 of YLS Development. According to the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD), there would be a proposed water mains under Stage 3 of YLS Development intersecting the Site (**Plan A-2**). In this regard, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department, Project Manager (West), Civil Engineering and Development Department and CE/C, WSD 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.

11.2 The surrounding area comprises predominantly warehouses and open storage/storage yards with one of them covered by valid planning permission (**Plan A-2**). While there is a residential structure in the vicinity, the applied use is generally not incompatible with the surrounding uses.

- 11.3 There is no adverse comment from concerned government departments, including the C for T, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department on traffic, fire safety and drainage aspects respectively. DEP does not support the application as there is sensitive receiver of residential use in the vicinity of the Site (located about 35m to its southeast) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, thus environmental nuisance is expected. Nonetheless, no environmental complaint concerning the Site has been 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 other 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”.
- 11.4 Given that two previous approvals for similar temporary warehouse uses have been granted to the Site in 2017 and 2020 respectively and 78 similar applications within/straddling the subject “U” zone have been approved 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 concerns on the application received during the statutory public inspection period as summarised in paragraph 10 above. The information on previous applications in paragraph 5.2 and 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 and electronic goods 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 7.6.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 5:00 p.m. and 9:00 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 open storage, repairing, cleaning, dismantling, other workshop activities and handling/storage of electronic wastes and cathode-ray tube, as proposed by the applicant, is allowed on the site at any time during the planning approval period;

- (d) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) 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 7.9.2024;
- (f) 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 7.12.2024;
- (g) in relation to (f) 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 7.3.2025;
- (h) if any of the above planning condition (a), (b), (c) or (d) 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
- (i) if any of the above planning condition (e), (f) or (g) 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 applicant fails to demonstrate that the applied 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 16.4.2024
Appendix Ia	FI received on 23.5.2024

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	Proposed Tree Preservation Plan with Site Layout
Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2024**