

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1269

- Applicant** : Mr. TANG Mo Pun represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 120 and Adjoining Government Land (GL), Shan Ha Tsuen, Yuen Long
- Site Area** : 6,250 m² (about) (including GL of about 33 m² (about 0.5%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Open Space” (“O”) (about 65.7%);
“Residential (Group A) 3” (“R(A)3”) (about 26.8%); and
[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]

Area shown as ‘Road’ (about 7.5%)
- Application** : Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction machinery and material 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 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 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, the applied use is for open storage of construction machinery and material (including cranes and steel frames). The area used for open storage use is about 3,500m² (i.e. about 56% of the total site area).

No workshop activities would be carried out at the Site and no heavy goods vehicles, including container trailers/tractors, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation and landscape proposal, and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is involved in nine previous applications including eight applications for various temporary open storage uses approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2000 and 2020 (details at paragraph 6 below).
- 1.4 Compared with the last application (No. A/YL-TYST/1036), the current application is submitted by the same applicant for the same use at the same site with the same development parameters albeit with slightly different layout and shorter operation hours. A comparison of the major development parameters of the current application and the last approved application are summarised as follows:

Major Development Parameters	Last Approved Application No. A/YL-TYST/1036 (a)	Current Application No. A/YL-TYST/1269 (b)	Difference (b)-(a)
Applied Use	Renewal of Planning Approval for Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years	Temporary Open Storage of Construction Machinery and Material for a Period of 3 Years	---
Site Area	About 6,250 m ²		---
Total Floor Area (Non-domestic)	About 519 m ²		---
No. and Height of Structures	6 • for site offices and toilet (3 – 6.5m, 1 – 2 storey(s))		---
No. of Parking and Loading/Unloading (L/UL) Space(s)	4 (for private cars/light goods vehicles) (5m x 2.5m each) 2 (for medium goods vehicles) (11m x 3.5m each)	4 (for private cars) (5m x 2.5m each) 2 (for medium goods vehicles) (11m x 3.5m each)	Changes in the internal layout of parking and L/UL spaces
Operation Hours	8:00 a.m. to 11:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	Shorter Operation Hours

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 13.5.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 21.6.2024 (**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 2011. All the approval conditions under the last planning application (No. A/YL-TYST/1036) had been complied with. The applicant has renewed the tenancy with the landowner 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 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 the area; 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. 31B) 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, the requirements under TPB PG-No. 31B 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 storage use on the Site would be subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site is involved in nine previous applications, including eight approved applications (No. A/YL-TYST/110, 458, 514, 516, 552, 696, 853 and 1036) for

temporary open storage use covering different extents of the Site¹. The remaining application (No. A/YL-TYST/132) is for proposed New Territories Exempted Houses, and its considerations are not relevant to the current application. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1b**.

- 6.2 Applications No. A/YL-TYST/110, 458, 514, 516, 552, 696, 853 and 1036 were approved with conditions each for a period of one to three years by the Committee between 2000 and 2020 mainly on the considerations that the applied/proposed uses were generally in line with the then TPB PG-No. 13 (or its later versions); the developments were 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 four of them were subsequently revoked due to non-compliance with approval conditions. As for the last application (No. A/YL-TYST/1036), all the time-limited approval conditions have been complied with and the planning permission lapsed on 27.9.2023.

7. Similar Applications

- 7.1 A total of 16 similar planning applications for various temporary open storage uses within/straddling the subject “O” and “R(A)3” zones and area shown as ‘Road’ have been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the 16 similar applications, 15 were approved by the Committee between 2020 and 2024 mainly on similar considerations as those in paragraph 6.2 above. However, the planning permissions for two of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining application (No. A/YL-TYST/1058) was rejected by the Committee in 2020 mainly on the considerations that there were substantiated environmental complaints concerning the Site related to recycling workshop use but the applicant had not provided any information to demonstrate that the continued operation of the development would not generate adverse environmental impacts on the surrounding areas, which was not in line with the then TPB PG-No. 13F; and the applied use was not in line with the planning intention of the “R(A)3” zone.

8. Planning Intentions

- 8.1 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.
- 8.2 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

¹ All the application sites (except application No. A/YL-TYST/1036) were zoned “Undetermined” on previous versions of OZP at the time of consideration by the Committee.

a building or in the purpose-designed non-residential portion of an existing building.

- 8.3 The concerned area shown as 'Road' is intended for new/improved access roads to serve the YLS Development.

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**); and
- (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 warehouses and open storage/storage yards with scattered residential structures, parking of vehicles, agricultural land, unused land and vacant land/structures;
- (b) there are residential structures to the immediate northwest of the Site in an area zoned "Village Type Development" ("V") on the OZP; and
- (c) some open storage yards are with valid planning permissions (No. A/YL-TYST/1126 and 1245), while some warehouses, open storage/ storage yards and parking of vehicles 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 provided 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 its immediate northwest) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected;
- (b) 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 V**.

11. Public Comment Received During the Statutory Publication Period

On 21.5.2024, the application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction machinery and material for a period of three years at the Site mainly zoned “O” (about 65.7%) and “R(A)3” (about 26.8%) with a minor portion shown as ‘Road’ (about 7.5%) on the OZP. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls mainly within areas zoned “Local Open Space” and “Residential – Zone 1 (Subsidised Sale Flats with Commercial)” and partly within an area shown as ‘Road’ under the Second Phase of YLS Development. In this regard, 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 warehouses and open storage/storage yards with some covered by valid planning permissions (**Plan A-2**). While there are residential structures to the northwest 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 approvals for similar open storage uses have been granted; the approval conditions of the last application have been complied with; and the technical concerns of relevant departments could be addressed through the imposition of approval conditions. As such, sympathetic consideration may be given to the application.
- 12.4 There is no adverse comment from concerned government departments, including the Commissioner for Transport, 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 are sensitive receivers of residential use in the vicinity of the Site (with the nearest one located to its immediate northwest) (**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. Should the planning application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental

Aspects of Temporary Uses and Open Storage Sites” in order to minimise possible environmental nuisance on the surrounding areas and to keep the Site clean and tidy at all times. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of other concerned government departments.

- 12.5 Eight previous approvals involving the Site for temporary open storage use had been granted from 2000 to 2020 and 15 similar applications within/straddling the subject “O” and “R(A)3” zones have been approved in the past five years. Approval of the current application is generally in line with the Committee’s previous decisions.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above, the Planning Department considers that the temporary open storage of construction machinery and material 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 5.7.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (b) 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 5.10.2024;
- (c) 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 16.8.2024;
- (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 5.1.2025;
- (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 5.4.2025;
- (f) if the above planning condition (a) 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 (b), (c), (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 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 "O" and "R(A)" zones which are primarily for provision of outdoor open-air public space and high-density residential developments 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 13.5.2024
Appendix Ia	FI received on 21.6.2024
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
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Proposed Tree Preservation and Landscape Plan
Drawing A-4	As-built Drainage 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
JULY 2024**