

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1281

<u>Applicant</u>	:	Mr. CHEUNG Kam Kwong represented by Goldrich Planners and Surveyors Limited
<u>Site</u>	:	Lots 322 S.A (Part), 323 (Part), 324 (Part) and 1421 (Part) in D.D. 119, Tong Yan San Tsuen, Yuen Long
<u>Site Area</u>	:	2,445.7 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
<u>Zonings</u>	:	“Residential (Group A) 3” (“R(A)3”) (about 61%); <i>[Restricted to a maximum plot ratio of 7 and a maximum building height of 160mPD]</i> “Open Space” (“O”) (about 28.1%); and “Village Type Development” (“V”) (about 10.9%) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	:	Renewal of Planning Approval for Temporary Open Storage of Construction Materials, Machinery and Scrap Metals with Ancillary Site Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval for temporary open storage of construction materials, machinery and scrap metals with ancillary site office for a period of three years at the application site (the Site) mainly zoned “R(A)3” and partly zoned “O” and “V” on the OZP (**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 paved, fenced-off and occupied by the applied use with valid planning permission under application No. A/YL-TYST/1111 until 5.10.2024 (**Plans A-1b to A-4**).

- 1.2 The Site with the ingress/egress at the northwestern part is accessible from Shan Ha Road via a local track (**Drawing A-1, Plans A-2 and A-3**). According to the applicant, the applied use is for open storage of construction materials, machinery and scrap metals (including scaffoldings, angle bars, iron pipes, etc.). The area used for open storage use is about 1,254 m² (i.e. about 51.3% of the site area). There are also five one to two-storey(s) structures (about 2.6m to 5.2m in height) with a total floor area of 302.9m² for open sheds, container storerooms and office uses. No dismantling, diminishing and other workshop activities will be carried out at the Site and no used electrical appliance, television, computer monitor, computer/electronic parts or any other electronic waste is allowed to be stored at the Site. No heavy goods vehicles exceeding 24 tonnes, including container trailers and tractors, will be allowed to enter the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation and landscape plan, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.3 The Site was involved in nine previous applications for various temporary open storage with/without ancillary site office uses which were all approved by the Rural and New Town Planning Committee (the Committee) of the Board between 2003 and 2021 (details at paragraph 6 below). Compared with the last application (No. A/YL-TYST/1111), the current application is submitted by the same 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 2,455.7 m ²
Total Floor Area (Non-domestic)	About 302.9 m ²
No. and Height of Structures	5 • for open sheds, container storerooms and office (2.6 – 5.2m, 1 – 2 storey(s))
No. of Parking Space	Nil
No. of Loading/ Unloading Space	1 (for medium goods vehicle) (11m x 3.5m)
Operation Hours	7:00 a.m. to 6:00 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 8.8.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 13.9.2024* (**Appendix Ia**)
 - (c) FI received on 25.9.2024* (**Appendix Ib**)
- * accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the attachments to the Application Form and FIs (**Appendices I to Ib**). They can be summarised as follows:

- (a) the Site is the subject of previous applications for similar temporary open storage uses. All approval conditions imposed on the last planning application No. A/YL-TYST/1111 have been complied with and the development parameters and layout of the current application remain unchanged;
- (b) the applied use is in line with the Town Planning Board Guidelines for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34D);
- (c) approval of the application on a temporary basis would not jeopardise the long-term planning intention of the area;
- (d) the applied use is compatible with the surrounding environment; and
- (e) there will be no adverse environmental, visual, landscape, drainage and traffic 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.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13G) are 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**.
- 4.2 TPB PG-No. 34D are also relevant to the application. The relevant assessment criteria are at **Appendix III**.

5. Background

The Site is currently not subject to planning enforcement action.

6. Previous Applications

- 6.1 The Site was involved in nine previous applications (No. A/YL-TYST/208, 250, 352, 486, 539, 613, 753, 919 and 1111) for various temporary open storage

with/without ancillary site office uses covering different extents of the Site¹. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites are shown on **Plan A-1b**.

- 6.2 All nine applications were approved with conditions each for a period of one to three years by the Committee between 2003 and 2021, mainly on the considerations that the applied uses were generally in line with the then TPB PG-No. 13C (or its later versions); the developments were not incompatible with the surrounding areas; approval of the applications on a temporary basis would not jeopardise the long-term development of the area; there was no imminent need for Small House (SH) development within the “V” zone portion of the Site; and the departmental concerns could be addressed by imposing approval conditions. However, the planning permissions for A/YL-TYST/208 and 486 were subsequently revoked due to non-compliance with time-limited approval conditions. As for the last application (No. A/YL-TYST/1111), all the approval conditions have been complied with and the planning permission is valid until 5.10.2024.

7. Similar Applications

- 7.1 A total of 20 similar planning applications for various temporary open storage uses with/without other uses within/straddling the subject “R(A)3”, “O” and “V” zones have been considered by the Committee in the past five years. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Out of the 20 similar applications, 19 were approved by the Committee between 2019 and 2024 mainly on similar considerations as those mentioned in paragraph 6.2 above. However, the planning permissions for four 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 grounds 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. The Site and Its Surrounding Areas (Plans A-1a to A-4)

- 8.1 The Site is:

(a) accessible from Shan Ha Road via a local track (**Plans A-2 and A-3**); and

¹ All the application sites (except application No. A/YL-TYST/1111) were zoned “Undetermined” and “V” on previous versions of OZP at the time of consideration by the Committee.

- (b) paved, fenced off and currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/1111 (**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 with scattered residential structures, a car service workshop, casual parking and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located to the immediate south of the Site; and
- (c) an open storage yard is covered with valid planning permission while some of the other uses in the vicinity are suspected unauthorized developments (UD) subject to planning enforcement action.

9. Planning Intentions

- 9.1 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.
- 9.2 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.
- 9.3 The planning intention of the “V” zone is to designate both existing recognised villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of SHs by indigenous villagers. It is also intended to concentrate village type development within the zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

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 are provided in **Appendices V and VI** 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 south) (**Plan A-**

- 2) and the applied use will cause traffic of heavy vehicles, environmental nuisance is expected;
- (b) there were three substantiated environmental complaints concerning the Site received in the past three years. According to the Environmental Compliance Team of his department, it is noted that the Site is a waste metal recycling site that recycles waste metal scraps. The three complaints recorded in 2022 are about dust nuisance and discharge of pollutant effluents from the Site. The team conducted a total of three inspections. No working activities but only storage of waste metal scraps were spotted during the time of visit. No dust nuisance and illegal discharge were spotted. Advice was given to the worker on-site to cover the waste metal properly to prevent dust emission. No offence was spotted by the inspection team; and
- (c) should the application be approved, the applicant should note his advisory comments in **Appendix VI**.

11. Public Comment Received During the Statutory Publication Period

On 16.8.2024, 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 renewal of planning approval for temporary open storage of construction materials, machinery and scrap metals with ancillary site office for a period of three years at the Site mainly zoned “R(A)3” (about 61%) and partly zoned “O” (about 28.1%) and “V” (about 10.9%) on the OZP. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls partly within an area zoned “Special Residential – Zone 1 – Public Rental Housing (with Commercial)” and “Local Open Space” 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. According to the District Lands Officer/Yuen Long, Lands Department, there is currently no SH application approved/under processing within the Site in the “V” 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. 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 VI**).
- 12.2 The surrounding areas comprise predominantly open storage/storage yards with scattered residential structures, a car service workshop, casual parking and vacant land/structures (**Plans A-2 and A-3**). While there are scattered residential structures in the vicinity, the applied use is generally not incompatible with the surrounding land 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; all 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 The application is also generally in line with TPB PG-No. 34D in that there has been no material change in planning circumstances since the granting of the previous approval under application No. A/YL-TYST/1111; all the approval conditions under the previous approval have been complied with; and the three-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.5 Concerned government departments, including the Commissioner for Transport, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to or no adverse comment on the application from 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 south) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles, thus environmental nuisance is expected. Nonetheless, while there were substantiated environmental complaints concerning the Site received by DEP in the past three years, no offence was spotted and only storage of waste metal scraps were observed during the inspections made by DEP. 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” to minimise potential 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. 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.
- 12.6 Given that nine previous approvals for various open storage uses have been granted to the Site from 2003 to 2021 and 19 similar applications within/straddling the subject “R(A)3”, “O” and “V” zones have been approved in the past five years, approval of the current application is in line with the previous decisions of the Committee.

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 materials, machinery and scrap metals with ancillary site office could be tolerated for a further 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 and be renewed from 6.10.2024 to 5.10.2027. 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 commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.1.2025;
- (c) 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
- (d) if the above planning condition (b) 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 VI**.

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)", "O" and "V" zones which are primarily for high-density residential developments, provision of outdoor open-air public space and development of Small Houses by indigenous villagers 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 8.8.2024

Appendix Ia	FI received on 13.9.2024
Appendix Ib	FI received on 25.9.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Relevant Extracts of TPB PG-No. 34D
Appendix IV	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation and Landscape Plan
Drawing A-4	Drainage Proposal
Drawing A-5	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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**