

RNTPC Paper No. A/YL-TYST/1077
For Consideration by
the Rural and New Town
Planning Committee
on 12.3.2021

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

APPLICATION NO. A/YL-TYST/1077

- Applicant** : Mr. FONG Man Lee represented by Goldrich Planners & Surveyors Limited
- Site** : Lot 2817 RP (Part) in D.D. 120, Kung Um Road, Yuen Long, New Territories
- Site Area** : 1,373.2 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Government, Institution or Community (2)” (“G/IC(2)”) (about 27.2%);
[Restricted to a maximum building height of 4 storeys]
- “Open Space” (“O”) (about 1.4%); and
- area shown as ‘Road’ (about 71.4%)
- Application** : Renewal of Planning Approval for Temporary Container Tractor/Trailer Park and Open Storage of Construction Machinery with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary container tractor/trailer park and open storage of construction machinery with ancillary office for a period of 3 years (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the “G/IC” and “O” zones, according to the 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) notwithstanding that the use or development is not provided for under the Notes of the OZP. 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 with planning permission under application No. A/YL-TYST/880.
- 1.2 The Site involves 6 previous applications for temporary container tractor/trailer park with/without other uses. The last application (No. A/YL-TYST/880) for the same use as the current application was approved with conditions for a period of 3

years by the Rural and New Town Planning Committee (the Committee) of the Board on 16.3.2018. All the time-limited approval conditions under the last application had been complied with and the permission is valid up to 16.3.2021. Compared with the last application, the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

- 1.3 According to the applicant, no vehicle dismantling, repairing or other workshop activities will be carried out on the Site. Plans showing the vehicular access leading to the Site, site layout, tree preservation proposal, drainage proposal and fire service installations (FSIs) proposal submitted by the applicant are at **Drawings A-1 to A-5** respectively.
- 1.4 The major development parameters of the current application are the same as the previously approved application No. A/YL-TYST/880, which are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/880 (a)	Current Application No. A/YL-TYST/1077 (b)
Applied Use	Temporary Container Tractor/Trailer Park and Open Storage of Construction Machinery with Ancillary Office for a Period of 3 Years	
Site Area	About 1,373.2 m ²	
Total Floor Area (Non-domestic)	About 328.2 m ²	
No. and Height of Structures	8 • four for container offices (4-6m, 1-2 storey(s)) • two for open sheds (2.5-4m, 1 storey) • one for toilet (4m, 1 storey) • one for container storeroom (tools) (4m, 1 storey)	
No. of Parking and Loading/Unloading Spaces	3 (for container tractor/trailer) (16m x 3.5m each)	
Operation Hours	9:00 a.m. to 6:00 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 appendix and plans received on 21.1.2021 **(Appendix I)**
- (b) Further Information (FI) received on 2.2.2021 providing FSIs proposal and certificate, and clarifying the site layout and operation **(Appendix Ia)**
- (c) FI received on 1.3.2021 clarifying the operation **(Appendix Ib)**
[(b) and (c) 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 Application Form and FIs (**Appendices I to Ib**). They can be summarised as follows:

- (a) The Site is the subject of six previously approved application for similar uses as the current application.
- (b) The proposal is in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F). A number of open storage uses have been approved by the Board in the vicinity of the Site.
- (c) No adverse visual, landscape, drainage and traffic impacts arising from the proposal are expected. All existing trees will be properly maintained and relevant guidelines will be followed. The applied use is visually compatible with the surrounding environment.

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 notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 On 27.3.2020, the Board promulgated the revised TPB PG-No. 13F. The Site falls within Yuen Long South (YLS) Development Area. The criteria for New Development Areas (NDAs) (including potential development areas) under the revised Guidelines are applicable. Relevant extracts of the Guidelines are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C) 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 involves 6 previous applications for temporary container tractor/trailer park with/without other uses covering slightly different extents of the Site. Details of the applications are summarised in **Appendix IV** and the boundaries of the sites

are shown on **Plan A-1b**.

- 6.2 Applications No. A/YL-TYST/107, 222, 334, 481, 695 and 880 were all approved with conditions each for a period of 3 years by the Committee between 2000 and 2018, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals 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 planning permission under application No. A/YL-TYST/107 was revoked in 2001 due to non-compliance with time-limited approval conditions.
- 6.3 Compared with the last application (No. A/YL-TYST/880), the current application is submitted by the same applicant for the same use on the same site with the same site layout and development parameters.

7. Similar Applications

- 7.1 There are 24 similar applications for various storage uses with/without ancillary uses within/straddling the subject “G/IC(2)” and “O” zones¹ since 2015. They were all approved with conditions each for a period of 1 or 3 year(s) by the Committee between 2015 and 2021, mainly on similar considerations that the developments were generally not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, one of the planning permissions (application No. A/YL-TYST/792) was subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix V** and their locations are shown on **Plan A-1a**.
- 7.2 For Members’ information, applications No. A/YL-TYST/1075 and 1078 for temporary open storage of construction machinery and materials and vehicle repair workshop, and temporary open storage and warehouse for storage of exhibition materials respectively each for a period of 3 years straddling the subject “O” zone will also be considered at this meeting (**Plan A-1a**).

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

- 8.1 The Site is:
- (a) accessible from Kung Um Road to its east via a local track;
 - (b) paved and fenced off; and
 - (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/880.
- 8.2 The surrounding areas have the following characteristics:
- (a) comprise predominantly open storage/storage yards and warehouses with scattered residential structures, vehicle workshops, car park, real estate agency, shrubland and vacant land/structures;

¹22 of the 24 similar applications were approved prior to the rezoning of the sites to “G/IC(2)” and “O” on the subject OZP. TYST 1077

- (b) there are residential structures in the vicinity of the Site with the nearest one located about 50m to its southeast;
- (c) to the further south is an area zoned “Village Type Development” on the OZP;
- (d) to the immediate north is the Drainage Services Department (DSD) Lung Tin Sewage Pumping Station, while the Yuen Long Highway is to its further north;
- (e) to the east of the Site across a nullah flanked by Kung Um Road and Kiu Hing Road is an area zoned “O” on the draft Tai Tong OZP No. S/YL-TT/17; and
- (f) except for three open storages, one warehouse and a real estate agency in the vicinity operating with valid planning permissions (applications No. A/YL-TYST/963, 981, 1013, 1065 and 1066), the other open storage/storage yards, warehouses, vehicle workshops and car park in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application and public comments, where relevant, are summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises an Old Schedule Agricultural Lot held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 2817 RP (Portion) in D.D.120 is covered by Short Term Waiver (STW) No. 2429 to permit structures erected thereon for the purpose of “Container Tractor and Trailer Park”.
- (c) Should the planning application be approved, the STW holder will need to apply to her office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by her department acting in the capacity as the landlord or

lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by her department.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) The land status of the access road/path/track leading to the Site from Kung Um Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track shall be clarified with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drain.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

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

- (a) He does not support the application as there are sensitive receivers of residential use in the vicinity (with the nearest one located about 50m to its southeast) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) There are no substantiated environmental complaints concerning the Site received in the past three years.
- (c) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use" (Code of Practice) to minimise any potential environmental nuisances on the surrounding area.

Drainage

10.1.5 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

- (a) He has no objection in principle to the application.
- (b) Based on the drainage proposal enclosed in the application, apparently the applicant would maintain the same drainage facilities as those implemented under the previous planning application No. A/YL-TYST/880.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/880 and the submission of records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Building Matters

10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant should be reminded of the detailed comments at **Appendix VII**.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Open Space

10.1.8 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) He has no objection in principle to the application.
- (b) The Site is not on the priority list for development agreed by the Yuen Long District Council. His department has no plan to develop the Site into public open space at present.

Long-Term Development

10.1.9 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in YLS – Investigation”. According to the Revised

Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Other Specified Uses (Refuse Collection Point and Sewage Pumping Station)”, partly within an area zoned “District Open Space” and partly within an area shown as ‘Road’.

- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.10 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application for temporary use for two years.
- (b) The Site falls within the boundary of YLS Development – Stage 1 (the project). To meet the target first population intake under the project by Q4 of 2028, land clearance is planned to commence in mid 2022 subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project by Q4 2021 and Q1 2022 respectively. The programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted.
- (c) Should the application be approved by the Board, an advisory clause should be stipulated to remind the applicant that ‘the Site might be subject to land resumption for the implementation of the YLS Development – Stage 1 which might take place at any time before the expiry of the temporary planning permission and thus the applicant shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 1’. His department will give sufficient notice to relevant department(s) for early resumption of the Site if his department's works commence early.

District Officer’s Comments

10.1.11 Comments of the District Officer/Yuen Long, Home Affairs Department (DO(YL), HAD):

His office has not received any comment from the village representatives in the vicinity regarding the application.

10.2 The following Government departments have no comment on the application:

- (a) Commissioner of Police (C of P);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Director of Agriculture, Fisheries and Conservation (DAFC).

11. Public Comments Received During Statutory Publication Period

On 29.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objected to the application on the grounds that the applied use will cause adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix VI-1**). The other individual raised concerns that approval would undermine the development of the area (**Appendix VI-2**).

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning approval for temporary container tractor/trailer park and open storage of construction machinery with ancillary office for a period of 3 years at a site zoned “G/IC(2)” (about 27.2%), “O” (about 1.4%) and an area shown as ‘Road’ (about 71.4%) on the OZP. Although the applied use is not in line with the planning intention of the “G/IC” zone and mainly falls with an area shown as ‘Road’, PM(W), CEDD has no objection to the application for temporary use for two years. It is noted that the programme of land resumption would follow the project programme notwithstanding the validity period of the planning permission to be granted. In this regard, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the Site. Nevertheless, should the application be approved, it is suggested to include an advisory clause to remind the applicant that the Site may be resumed by the Government at any time during the planning approval period for the implementation of YLS Development – Stage 1.

12.2 The surrounding areas comprise predominantly open storage/storage yards, warehouses and vehicle repair workshops (**Plan A-2**). While there are residential structures in the vicinity, the development is generally not incompatible with the surrounding uses.

12.3 The Site falls within the YLS Development Area. For applications in NDAs (including potential development areas), the following considerations in the TPB PG-No. 13F are relevant:

For existing open storage and port back-up uses with previous planning approval(s) and/or permitted under the previous OZPs, sympathetic consideration may be given to the application (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant) until the concerned site is required for implementation of NDA development, provided that the relevant approval conditions, if any, have been complied with. Technical assessments, where appropriate, should be submitted to demonstrate that the continued operation of the current uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas and the concerns of the departments and local residents, if any, can be addressed through the implementation of the approval conditions. In view of the impending implementation of NDAs, new open storage and port back-up uses are generally not encouraged to infiltrate into the NDAs. There is a general presumption against such uses at greenfield areas and/or at sites with land use compatibility issue, e.g. in close proximity to existing residential dwellings which may be subject to environmental nuisances caused by the open storage and port back-up uses.

- 12.4 The application is generally in line with TPB PG-No. 13F in that the Site falls within the YLS Development Area and previous planning approvals for similar open storage use have been given under the previous OZPs; all time-limited approval conditions of the previous application have been complied with; relevant proposals have been submitted to demonstrate that the applied use would not generate adverse impacts on the surrounding areas; and the local concern and technical concerns of relevant departments could be addressed through the imposition of approval conditions.
- 12.5 The application is generally in line with TPB PG-No. 34C in that approval of the application would not pre-empt the long-term development of the Site; all the time-limited approval conditions under the previous application No. A/YL-TYST/880 had been complied with; and the 3-year approval period sought is reasonable and of the same timeframe as the previous approval.
- 12.6 There is no adverse comment on the application 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 50m to its southeast) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. However, there has been no environmental complaint concerning the Site received in the past 3 years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to minimise any potential environmental nuisances or to address the local concern and 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 enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to keep the Site clean and tidy at all times and to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas.
- 12.7 Given that six previous approvals for similar uses as the current application have been granted to the Site and 24 similar applications within/straddling the subject “G/IC(2)” and “O” zones have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.8 There are two public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.7 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments summarised in paragraph 11 above, the Planning Department considers that the temporary container tractor/trailer park and open storage of construction machinery with ancillary office could be tolerated for a further period of 3 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 3 years and be renewed from 17.3.2021 to 16.3.2024. The following conditions of approval and advisory

clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 6:00 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 or public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle dismantling, vehicle repairing or other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the existing trees on the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) 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 17.6.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (h) 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 the above planning condition (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.

[Approval conditions (a), (b), (c), (d), (f), (g) and (i) are the same as those under the permission for application No. A/YL-TYST/880, conditions (e) and (h) have been updated as per the current proposal, and the reinstatement clause is deleted to accord with the department's latest requirements.]

Advisory clauses

The recommended advisory clauses are at **Appendix VII**.

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 intention of the "G/IC" zone which 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. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the development 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 appendix and plans received on 21.1.2021
Appendix Ia	FI received on 2.2.2021
Appendix Ib	FI received on 1.3.2021
Appendix II	Relevant Extracts of TPB PG-No. 13F
Appendix III	Relevant Extracts of TPB PG-No. 34C
Appendix IV	Previous Applications covering the Site
Appendix V	Similar Applications within/straddling the subject "G/IC(2)" and "O" zones on the TYST OZP since 2015
Appendices VI-1 and VI-2	Public Comments received during the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Drawing A-3	Tree Preservation Proposal
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
MARCH 2021**