

RNTPC Paper No. A/YL-TYST/1079
For Consideration by
the Rural and New Town
Planning Committee
on 26.3.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1079

- Applicant** : Top Crown Engineering Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1167 S.A RP and 1172 in D.D. 119 and Adjoining Government Land (GL), Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,074 m² (about) (including GL of about 248 m² (about 23.1%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen (TYST) Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Warehouse for Storage of Construction Material for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary warehouse for storage of construction material for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP for the “U” zone, all uses or development 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, A-4a and A-4b**).
- 1.2 The Site involves 2 previous applications for the same use as the current application (**Plan A-1**). The last application (No. A/YL-TYST/867) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 22.12.2017. All the approval conditions of the planning permission have been complied with and the planning permission lapsed on 23.12.2020. Compared with the last application (No. A/YL-TYST/867), the current application is submitted by the same applicant for the same use at the same site with slightly different site layout and similar development parameters albeit with shorter operation hours.

- 1.3 According to the applicant, the Site is intended for storage of construction materials (including pipes, barricades, bricks and sanitary wares). No workshop activity will be allowed on the Site. No medium and heavy goods vehicle, including container trailer/tractor, will be allowed to enter the Site. Plans showing the site layout, landscape and tree preservation proposal, and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the current application and the previously approved application are summarised as follow:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/867 (a)	Current Application No. A/YL-TYST/1079 (b)	Difference (b)-(a)
Applied Use	Temporary Warehouse for Storage of Construction Material for a Period of 3 Years		--
Site Area	About 1,074 m ² (including about 248 m ² of GL)		--
Total Floor Area (non-domestic)	About 612 m ²	About 477 m ²	-135 m ² (-22.1%)
No. and Height of Structures	6 <ul style="list-style-type: none"> • three for warehouse (8.5m, 1 storey) • one for site office (3m, 1 storey) • one for toilet (3.5m, 1 storey) • one for electricity meter room (3m, 1 storey) 	5 <ul style="list-style-type: none"> • two for warehouse (8.5m, 1 storey) • one for site office (3m, 1 storey) • one for toilet (3.5m, 1 storey) • one for electricity meter room (3m, 1 storey) 	-1 (-16.7%)
No. of Parking and Loading/ Unloading Space(s)	1 (for light goods vehicle) (7m x 3.5m)		--
Operation Hours	7:00 a.m. to 7:00 p.m., with no operation on Sundays and Public Holidays	9:00 a.m. to 5:00 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 annex and plans received on (Appendix I) 26.1.2021
- (b) Further Information (FI) received on 11.3.2021 providing (Appendix Ia) response to departmental comments
[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 (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of two previous planning permissions and has been occupied by the applied use since 2015. All approval conditions imposed to the previous application (No. A/YL-TYST/867) had been complied with. The applicant was aboard and hence missed the deadline to apply for the renewal of planning permission.
- (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).
- (c) The temporary proposal 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 proposal is compatible with the surrounding environment. Besides, there is a shortage of land for port back-up purpose in TYST.
- (d) There will be minimal traffic, environmental and drainage impacts arising from the proposal.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in the Town Planning Board Guidelines on satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves 2 previous applications for the same use as the current application covering the same site. 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/707 and 867 were approved with conditions each for a period of 3 years by the Committee in 2015 and 2017 respectively, 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.

- 5.3 Compared with the last application (No. A/YL-TYST/867), the current application is submitted by the same applicant for the same use at the same site with slightly different site layout and similar development parameters with shorter operation hours.

6. Similar Applications

- 6.1 A total of 85 similar planning applications for various temporary warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2015. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Out of the 85 similar planning applications, 82 were approved mainly on similar considerations that the developments were not incompatible with the surrounding open storage/warehouse uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for 25 of them were revoked due to non-compliance with approval conditions.
- 6.3 The remaining three planning applications (No. A/YL-TYST/922, 926 and 943) were rejected by the Committee between 2018 and 2019 on the grounds that approval of applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses, thus nullifying the statutory planning control system.
- 6.4 For Members’ information, application No. A/YL-TYST/1081 for temporary warehouse for storage of construction materials, construction machinery, used electrical/electronic appliances and parts and scrap metal for a period of 3 years within/straddling the subject “U” zone will also be considered at this meeting (**Plan A-1**).

7. The Site and Its Surrounding Areas (Plans A-1 to A-4b)

- 7.1 The Site is:
- (a) abutting Kung Um Road to its south-east;
 - (b) paved and fenced off; and
 - (c) occupied by the applied use without valid planning permission.
- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):
- (a) comprise predominately open storage/storage yards and warehouses intermixed with scattered residential structures and vacant land/structures;
 - (b) there are residential structures in the vicinity of the Site with the nearest one located to its immediate east;

- (c) to the east of the Site across a nullah flanked by Kung Um Road and Pak Sha Shan Road is an area zoned “Other Specified Uses” annotated “Rural Use” on the draft Tai Tong OZP No. S/YL-TT/17; and
- (d) except for nine warehouses and/or open storage/storage yards with/without ancillary uses operating with valid planning permissions (No. A/YL-TYST/889, 898, 916, 960, 1000, 1019, 1022, 1038 and 1062), the other open storage/storage yards and warehouses in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 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. However, Kung Um Road is insufficient to cater for the heavy goods vehicular traffic generated from the proposed development.
- 8.2 According to the Explanatory Statement of the OZP, under the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation” (the YLS Study), this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comment, where relevant, are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
 - (a) The Site comprises GL and Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
 - (b) Within the Site, Lots No. 1172 and 1167 S.A RP in D.D. 119 are currently covered by Short Term Waivers (STWs) No. 4175 and 4935 respectively to permit structures erected thereon for the purpose of “Temporary Warehouse for Storage of Construction Material”. The GL within the Site is covered by Short Term Tenancy (STT) No. 2855 for the purpose of “Temporary Warehouse for Storage of Construction Material”.
 - (c) Should planning approval be given to the application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT 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 of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

Traffic

9.1.2 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 and consulted 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.

9.1.3 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/drains.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Kung Um Road.

Environment

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

- (a) There are no substantiated environmental complaints concerning the Site received in the past three years.
- (b) 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

9.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the proposal.
- (b) Based on the planning statement 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/867.
- (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/867 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.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. In addition, the applicant should be reminded of the detailed comments at **Appendix V**.

Building Matters

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

- (a) As there is no record of approval granted 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 V**.

Long-Term Development

9.1.8 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 YLS Study. 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 Use (Mixed Use)” (“OU(MU)”), partly within an area zoned “Local Open Space” (“LO”) 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.

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

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the majority of the Site falls within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 3 is being formulated.
- (c) The southeastern part of the Site falls within the boundary of YLS – Development – Stage 2 Phase 2. The land resumption and clearance programme of the project is subject to Executive Council’s authorisation on land resumption and Finance Committee’s funding approval of the project. Land clearance operation is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission may not be supported in future and shall be advised not to carry out any substantial works in view of the planned YLS Development – Stage 2 Phase 2.

District Officer’s Comments

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

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

9.2 The following government departments have no comment on the application:

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);

- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
and
- (c) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 2.2.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received objecting to the application on the grounds that the applied use will generate adverse traffic, environmental and fire safety impacts on the surrounding area (**Appendix IV**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse for storage of construction material for a period of 3 years at a site zoned “U” on the OZP. The applied use is not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage but is designated with this zoning mainly due to concerns of the capacity of Kung Um Road. In this regard, C for T has no adverse comment on the application. Whilst the Site falls within an area zoned as “OU(MU)”, “LO” and an area shown as ‘Road’ on the Revised RODP of YLS, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has 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. Nevertheless, should the application be approved, the applicant shall be reminded that extension of the planning permission may not be supported in future and no substantial works should be carried out in view of the planned YLS Development – Stage 2 Phase 2.
- 11.2 The surrounding areas comprise predominantly open storage/storage yards and warehouses (**Plan A-2**). Although there are residential structures in the vicinity, the proposal is generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the local concern and the technical requirements of 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 be advised to follow the relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that two previous approvals for the same use as the current application have been granted to the Site and 82 similar applications have been approved within/straddling the subject “U” zone since 2015, approval of the current application is generally in line with the Committee’s previous decisions. While there were three similar applications rejected by the Committee on the grounds that approval of the application with repeated non-compliance with approval

conditions would set an undesirable precedent for other similar planning permissions for temporary use, such consideration is not applicable to the current application as all the planning approval conditions of the previous application have been complied with.

- 11.5 There is one public comment received on the application during the statutory publication period as summarised in paragraph 10. 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 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department considers that the temporary warehouse for storage of construction material could be tolerated for a period of 3 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 3 years until 26.3.2024. 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 medium or 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;
- (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 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 26.6.2021;

- (i) 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 26.9.2021;
- (j) 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 26.12.2021;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (g) 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
- (l) if any of the above planning conditions (h), (i) or (j) 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**.

12.3 There is no strong reason to recommend rejection of the application.

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 annex and plans received on 26.1.2021
Appendix Ia	FI received on 11.3.2021
Appendix II	Previous Applications covering the Application Site
Appendix III	Similar Applications within/straddling the “U” zone on the OZP since 2015
Appendix IV	Public Comment received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape and Tree Preservation Plan

Drawing A-3	As-built Drainage Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2021**