

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1217

- Applicant** : Top Crown Engineering Limited represented by Miss HUI Hang Yu
- Site** : Lots 1181 (Part), 1182 (Part) and 1183 (Part) in D.D. 119, Pak Sha Tsuen, Yuen Long, New Territories
- Site Area** : 1,130 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Undetermined”
- Application** : Temporary Warehouse and Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and open storage of construction machinery and construction materials for a period of three years at the application site (the Site) (**Plan A-1a**). According to the covering Notes of the OZP, all uses or developments within the “U” zone except those specified in the Notes require planning permission from the Town Planning Board (the Board). The Site is currently occupied by open storage of construction materials without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**). According to the applicant, the applied use is for a warehouse and open storage of construction machinery (including miniature loader, vibratory rammer and roller) and construction materials (including bricks, sandstone, glass and cement). No selling, repairing, spraying, cleansing, dismantling or vehicle cleaning activities will be carried out at the Site. No medium or heavy goods vehicles, including container tractor/trailers, will be allowed to access the Site. Plans showing the site layout and vehicular access leading to the Site submitted by the applicant are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is part of two previous applications for temporary open storage uses approved by the Rural and New Town Planning Committee (the Committee) of the Board in 2015 and 2019 respectively (details at paragraph 6 below).
- 1.4 Compared with the last application (A/YL-TYST/936), the current application is submitted by a different applicant for similar storage use at a smaller site with different layout and development parameters. The major development parameters of the current application and the last previously approved application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/936 (a)	Current Application No. A/YL-TYST/1217 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Recycling Materials with Ancillary Workshop for a Period of 3 Years	Temporary Warehouse and Open Storage of Construction Machinery and Construction Materials for a Period of 3 Years	Addition of Warehouse use and Change in Stored Items
Site Area	About 8,043 m ²	About 1,130 m ²	-6,913 m ² (-86%)
Total Floor Area (Non-domestic)	About 1,244 m ²	About 140 m ²	-1,104 m ² (-89%)
No. and Height of Structure(s)	11 • for open sheds, site offices, staff rest room, storerooms, washrooms, ancillary workshops and meter room (2.5 – 7m, 1 storey)	1 • for warehouse (4m, 1 storey)	-10 (-91%)
No. of Parking Space(s)	6 (for private cars) (5 m x 2.5 m each)	1 (for private car) (5 m x 2.5 m)	-5
No. of Loading/Unloading Space(s)	4 (for medium/heavy goods vehicles) (11 m x 3.5 m each)	1 (for light goods vehicle) (7 m x 3.5 m)	-3
Operation Hours	9:00a.m. to 6:00p.m., with no operation on Sundays and public holidays	8:00a.m. to 6:00p.m., with no operation on Sundays and public holidays	Longer Operation Hours

- 1.5 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 11.5.2023 (**Appendix I**)
- (b) Supplementary Information (SI) received on 16.5.2023 (**Appendix Ia**)
- (c) Further Information (FI) received on 9.6.2023* (**Appendix Ib**)
* *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 Attachment to the Application Form, SI and FI (**Appendices I to Ib**). They can be summarised as follows:

- (a) the temporary use would not jeopardise the long-term planning intention. A number of open storage and warehouse 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 not incompatible with the surrounding environment; and
- (b) the applicant pledges to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. No adverse traffic and environmental impacts arising from the applied use are envisaged.

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 the 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

TPB PG-No. 13G is relevant to the application. The Site falls within Category 1 area under TPB PG-No. 13G promulgated by the Board on 14.4.2023. The relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site was the subject of planning enforcement case (No. E/YL-TYST/902) against an unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice was issued on 14.12.2022 requiring discontinuation of the UD by 14.2.2023. Site inspection on 25.5.2023 revealed that the UD still continued upon expiry of the notice, and prosecution action may be followed.

6. Previous Applications

- 6.1 The Site involves two previous applications (No. A/YL-TYST/766 and 936) for temporary open storage uses with other uses covering a larger site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites shown on **Plan A-1b**.
- 6.2 Both applications were approved with conditions for a period of three years by the Committee in 2015 and 2019 respectively mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would

not jeopardise the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the above planning permissions were subsequently revoked in 2017 and 2021 respectively due to non-compliance with approval conditions regarding the implementation of drainage proposal and the submission and implementation of fire service installations proposal.

7. Similar Applications

- 7.1 A total of 100 similar planning applications for various temporary open storage and/or warehouse uses with/without other uses within/straddling the subject “U” zone had been considered by the Committee since 2018. 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 100 similar applications, 96 were approved by the Committee between 2018 and 2021 mainly on similar considerations as those in paragraph 6.2 above. However, the planning permissions for 23 of them were subsequently revoked due to non-compliance with approval conditions.
- 7.3 The remaining four applications for temporary warehouse use were rejected by the Committee between 2018 and 2021 on the grounds that approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses, thus nullifying the statutory planning control system.
- 7.4 For Members’ information, application No. A/YL-TYST/1213 for temporary open storage of construction machinery and materials, recycling materials and used electrical appliances with ancillary workshop for a period of three years within the same “U” zone will also be considered at this meeting (**Plan A-1a**).

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. Any proposed developments within the zone should demonstrate that they will not have significant traffic, drainage and environmental impacts on the area.
- 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”, this area falls within the remaining stages of the YLS Development and the existing operations would be gradually phased out in stages.

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

- 9.1 The Site is:
 - (a) accessible from Kung Um Road to its east via a local track (**Plans A-2 and A-3**); and

- (b) paved, fenced off and occupied by open storage of construction materials without valid planning permission (**Plans A-2 to 4**).

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, car parks, a vehicle repair shop, car service and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 10m to its west; and
- (c) except two warehouses and a open storage yard with valid planning permissions (No. A/YL-TYST/1019, 1062 and 1167), the remaining warehouses, open storage/storage yards, car parks, vehicle repair shop and car service uses in the vicinity are suspected UDs subject to planning enforcement action.

10. Comments from Relevant Government Departments

All government 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.

11. Public Comment Received During the Statutory Publication Period

On 19.5.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual opining that there are fire safety concerns due to non-compliance with approval conditions of the previous planning applications and such situation should not be tolerated (**Appendix VII**).

12. Planning Considerations and Assessments

12.1 The application is for temporary warehouse and open storage of construction machinery and construction materials for a period of three years at the Site zoned “U” on the OZP. The applied use is generally not in conflict with the planning intention of the “U” zone which is to cater for the continuing demand for open storage which cannot be accommodated in conventional godown premises. The area is designated as “U” zone mainly due to concerns of the capacity of Kung Um Road. In this regard, the Commissioner for Transport (C for T) has no adverse comment on the application. Under the Revised Recommended Outline Development Plan of YLS Development, the Site falls partly within an area zoned “Education” and partly within an area shown as ‘Road’ under Stage 3 of YLS Development. The Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department and Project Manager (West), Civil Engineering and Development Department have no objection to the application.

Approval of the application on a temporary basis for a period of three years would not jeopardise the long-term development of the area.

12.2 The surrounding area comprises predominantly warehouses and open storage/storage yards with some of them covered by valid planning permissions (**Plan A-2**). While there are residential structures in the vicinity, the applied use is generally not incompatible with the surrounding land uses.

12.3 According to TPB PG-No. 13G, the Site falls within Category 1 areas. The following guidelines are relevant:

Category 1 areas are considered suitable for open storage and port back-up uses. Favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.4 The application is generally in line with TPB PG-No. 13G in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; and local concerns and technical requirements of relevant government departments could be addressed through the implementation of approval conditions.

12.5 Concerned government departments, including C for T, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department have no objection to/no adverse comment on the application. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. There has been no environmental complaint concerning the Site received in the past three years. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to address the technical requirements of concerned government departments. Should the planning application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and to keep the Site clean and tidy at all times.

12.6 Given that two previous approvals for temporary open storage use have been granted to the Site from 2015 to 2019 and 96 similar applications within/straddling the subject “U” zone have been approved in the past five years, approval of the current application is generally in line with the Committee’s previous decisions. While there were four similar applications for temporary warehouse use in the subject “U” zone rejected on the grounds that approval of the applications with repeated non-compliances would set an undesirable precedent for other similar planning permissions, such consideration is not applicable to the current application as it is submitted by a different applicant when compared with the last application.

12.7 There is one public comment raising concern on the application received during statutory public inspection period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that temporary warehouse and open storage of construction machinery and construction materials 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 23.6.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, 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;
- (b) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.12.2023;
- (c) in relation to (b) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.3.2024;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) 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 4.8.2023;
- (f) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.12.2023;
- (g) in relation to (f) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 23.3.2024;
- (h) if any of the above planning conditions (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (i) if any of the above planning condition (b), (c), (e), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

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 11.5.2023
Appendix Ia	SI received on 16.5.2023
Appendix Ib	FI received on 9.6.2023
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
Appendix VII	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access 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
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JUNE 2023**