

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1062

- Applicant** : Top Crown Engineering Limited represented by Top Bright Consultants Limited
- Site** : Lots 1160 (Part), 1161, 1163 S.B (Part), 1164 RP (Part), 1174 (Part) and 1175 (Part) in D.D. 119, Kung Um Road, Yuen Long, New Territories
- Site Area** : 5,027 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
- Zoning** : “Undetermined” (“U”)
- Application** : Temporary Open Storage of Construction Materials and Recyclable Materials with Ancillary Workshop 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 open storage of construction materials and recyclable materials with ancillary workshop for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, all uses or development in 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 the applied use with valid planning permission under application No. A/YL-TYST/936 until 18.1.2022 (**Plan A-1**).
- 1.2 The Site involves 4 previous applications for various temporary open storage with/without ancillary workshop uses (**Plan A-1**). The last application (No. A/YL-TYST/936) for temporary open storage of recycling materials with ancillary workshop was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 18.1.2019. The approval conditions on implementation of drainage proposal as well as submission and implementation of fire service installations (FSIs) proposal under the last application have yet to be complied with and the planning permission is valid until 18.1.2022. Compared with the last application, the current application is submitted by a different applicant for a similar open storage use on a smaller site with different site layout and development parameters.

1.3 According to the applicant, only construction materials (such as iron bars, water pipes and metal) and recyclable materials (such as plastic, metal and paper) will be stored at the Site. Except for consolidation, classification, dismantling and packing of recycled materials, no other workshop activities will be carried out within the Site. Plans showing the site layout and landscape and tree preservation proposal submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

1.4 The major development parameters of the previously approved application and the current application are summarised as follows:

Major Development Parameters	Previous Approved Application No. A/YL-TYST/936 (a)	Current Application No. A/YL-TYST/1062 (b)	Difference (b)-(a)
Applied Use	Temporary Open Storage of Recycling Materials with Ancillary Workshop for a Period of 3 Years	Temporary Open Storage of Construction Materials and Recyclable Materials with Ancillary Workshop for a Period of 3 Years	Change in Stored Items
Site Area	8,043 m ² (about)	5,027 m ² (about)	-3,016 m ² (-37.5%)
Total Floor Area (non-domestic)	1,244 m ² (about)	908 m ² (about)	-336 m ² (-27%)
No. and Height of Structures	11 • for storage, ancillary site office, staff rest room, storeroom, washroom, ancillary workshop and meter room (2.5-7m, 1 storey)	34 • for storage, storeroom, E&M room, canopy, ancillary site office, washroom, shelter, ancillary workshop and meter room (2.5-7m, 1-2 storey(s))	+23 structures (+209%)
No. of Parking and Loading/Unloading Spaces	10 • 6 for private cars (5m x 2.5m each) • 4 for medium/heavy goods vehicles (M/HGVs) (3.5m x 11m)	6 • 3 for private cars (5m x 2.5m each) • 3 for M/HGVs (3.5m x 11m)	-4 (-40%)
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 received on 9.11.2020 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information received on 16.11.2020 clarifying the proposed operation **(Appendix Ib)**
- (d) Further Information (FI) received on 28.12.2020 responding to departmental comments **(Appendix Ic)**
- (e) FI received on 29.12.2020 clarifying the proposed operation **(Appendix Id)**
[(d) and (e) 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 Supplementary Planning Statement, Supplementary Information and FI (**Appendices Ia to Id**). They can be summarised as follows:

- (a) The Site is covered by planning permissions since 2008. There has been no major change in planning circumstances since the approval of the last application (No. A/YL-TYST/936). Some approval conditions under the last application cannot be complied with as the structures on the Site have changed due to a change in operator.
- (b) According to the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F), the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses.
- (c) The proposal would contribute to the Government policy on promoting waste reduction and recycling activities by providing suitable land for the recycling industry.
- (d) The temporary proposal is in line with the planning intention of the “U” zone and will not frustrate the long-term development of the area. There is no major residential development in the vicinity and a number of open storage yards near the Site have been approved by the Board. The development is compatible with the surrounding environment.
- (e) No adverse environmental, visual, drainage or traffic impacts are expected. Adequate space for manoeuvring of vehicles will be provided. Existing trees/drainage facilities will be preserved/maintained by the applicant. New drainage facilities will be designed and implemented to the satisfaction of the Drainage Services Department (DSD).

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

The TPB PG-No. 13F are relevant to the application. The Site falls within Category 1 areas under TPB PG-No. 13F promulgated by the Board on 27.3.2020. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site involves 4 previous approved applications (No. A/YL-TYST/381, 593, 766 and 936) for various temporary open storage with/without workshop uses covering different extents of the Site. Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.
- 6.2 Applications No. A/YL-TYST/381, 593 and 766 were all approved with conditions each for a period of 3 years by the Committee between 2008 and 2015, 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 permissions for applications No. A/YL-TYST/381 and 766 were subsequently revoked in 2009 and 2017 respectively due to non-compliance with approval conditions.
- 6.3 The last application (No. A/YL-TYST/936) for temporary open storage of recycling materials with ancillary workshop was approved with conditions for a period of 3 years by the Committee on 18.1.2019 mainly on similar considerations as those stated in paragraph 6.2 above. The approval conditions on implementation of drainage proposal as well as submission and implementation of FSIs proposal under the last application have yet to be complied with and the planning permission is valid until 18.1.2022.
- 6.4 Compared with the last application, the current application is submitted by a different applicant for a similar open storage use on a smaller site with different site layout and development parameters.

7. **Similar Applications**

There are 29 similar applications for various temporary open storage with or without other uses within or straddling the “U” zone considered by the Committee since 2015. All 29 applications were approved by the Committee between 2015 and 2020 each for a period of three years, mainly on similar considerations that the developments were not incompatible with the surrounding uses and the concerns of relevant departments could be addressed by imposing approval conditions. However, the planning permissions for two of them were subsequently revoked due to non-compliance with approval conditions. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.

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

9.1 The Site is:

- (a) accessible from Kung Um Road via a short local track (**Drawing A-1, Plans A-2 and A-3**);
- (b) paved and fenced-off; and
- (c) currently occupied by the applied use with valid planning permission under application No. A/YL-TYST/936 until 18.1.2022 (**Plans A-4a and A-4b**).

9.2 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, a car service and vacant land/structures;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 60m to its north;
- (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 one open storage yard and three warehouses operating with valid planning permissions (No. A/YL-TYST/936, 966, 1000 and 1019), the other open storage/storage yards, warehouses and car service in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

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 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 1160 and 1161 in D.D. 119 are currently covered by Short Term Waivers (STWs) No. 3665 and 3664

respectively to permit structures erected thereon for the purpose of “Open Storage of Construction Materials and Machinery and Ancillary Use”.

- (c) Should planning approval be given to the subject planning application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise any irregularities on site, if any. 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

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 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.

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/drains.
- (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 60m north of the Site) (**Plan A-2**) and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected.

- (b) According to his record, one substantiated complaint was received in the past 3 years, which was related to suspected plastic burning activities and associated malodour and dark smoke emitted from the chimney of the Site. Investigations revealed that no plastic burning activities were carried out and no dark smoke was emitting from the chimney. Only faint malodour from plastic melting process was detected but the finding did not substantiate further enforcement action. The operator had carried out maintenance work to the odour treatment system to improve the situation.
- (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.

Drainage

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

- (a) He has no objection in principle to the development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to 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 adhere to the good practice guidelines at **Appendix V** and be reminded of the detailed comments at **Appendix VII**.
- (c) Moreover, having considered the nature of the open storage, an approval condition requiring the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be incorporated if the application is approved. To address this approval condition, the applicant is required to submit a valid fire certificate (FS 251) to his department for approval.

Building Matters

10.1.7 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 VII**.

Long-Term Development

10.1.8 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 within an area partly zoned “Education” (“E”) and “Local Open Space” (“LO”) and partly 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.

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

- (a) He has no objection to the application.
- (b) However, based on the preliminary project boundary of the proposed YLS Development, the Site mainly 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) It is also noted that a small portion of eastern 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 at the eastern part of the Site is tentatively targeted to commence in 2024. Thus, the applicant shall be reminded that extension of the planning permission for the eastern

part of the Site may not be supported in future and shall be advised not to carry out any substantial works within the eastern part of the Site in view of the planned YLS development – Stage 2 Phase 2.

District Officer's Comments

10.1.10 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.

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

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

11. Public Comments Received During the Statutory Publication Period

On 17.11.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from the same individual (**Appendices VI-1 and VI-2**) objecting to the application on the grounds that the proposal with large volumes of traffic will undermine the safety and living quality of nearby villagers.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction materials and recyclable materials with ancillary workshop for a period of 3 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 intended for open storage use 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. While the Site falls within an area partly zoned “E” and “LO” and partly 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 applied temporary use for 3 years. As such, approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.

12.2 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 in the subject “U” zone.

12.3 According to TPB PG-No. 13F, 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. 13F in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up use; and the local concerns and technical concerns of relevant government departments could be addressed through the implementation of approval conditions.
- 12.5 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 60m to its north) (**Plan A-2**), and the applied use will cause traffic of heavy vehicles; environmental nuisance is expected. Whilst there was one substantiated environmental complaint concerning the Site received in 2018, it was related to an operation by a different applicant. Furthermore, relevant approval conditions are recommended in paragraph 13.2 below to minimise any potential environmental nuisances or to address local concerns or 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 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.
- 12.6 Given that four previous approvals for open storage uses have been granted to the Site and 29 similar applications within/straddling the subject “U” zone have been approved since 2015, approval of the current application is generally in line with the Committee’s previous decisions.
- 12.7 There were two public comments received during the statutory publication period as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 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 as summarised in paragraph 11, the Planning Department considers that the temporary open storage of construction materials and recyclable materials with ancillary workshop could be tolerated for a 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 until 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 6:00 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) except for consolidation, classification, dismantling and packing of recycled materials, no other workshop activities, as proposed by the applicant, are 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) all existing trees within the Site shall be maintained at all times during the planning approval period;
- (f) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) 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 8.7.2021;
- (h) in relation to (g) 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 8.10.2021;
- (i) in relation to (h) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) 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 19.2.2021;
- (k) 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 8.7.2021;
- (l) in relation to (k) 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 8.10.2021;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (i) 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
- (n) if any of the above planning conditions (g), (h), (j), (k) or (l) 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 VII**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Member's reference:

the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas.

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 received on 9.11.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	Supplementary Information received on 16.11.2020
Appendix Ic	FI received on 28.12.2020
Appendix Id	FI received on 29.12.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous Applications covering the Site
Appendix IV	Similar Applications within or straddling the Subject "U" Zone since 2015
Appendix V	The Good Practice Guidelines for Open Storage Sites
Appendices VI-1 and VI-2	Public Comments Received During the Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawing A-2	Landscape and Tree Preservation Proposal
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos