

RNTPC Paper No. A/YL-KTN/677
For Consideration by
the Rural and New Town
Planning Committee
on 15.11.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/677

- Applicant** : Ms. WONG Shui-ying
- Site** : Lot 667 (Part) in D.D. 110, Kam Tin Road near Shek Kong San Tsuen, Yuen Long
- Site Area** : About 595 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.4 and maximum building height of 3 storeys (9m)]
- Application** : Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale for a Period of 3 Years

1. The Proposal

- 1.1 The applicant sought planning permission to use the application Site (the Site) for temporary open storage of vehicles (lorries, vans and private cars) for sale for a period of three years. The Site is currently used for the applied use without valid planning permission (**Plans A-2 and A-4**).
- 1.2 The Site was the subject of nine previous applications (No. A/YL-KTN/45, 76, 104, 179, 254, 332, 389, 486 and 539) (**Plan A-1b**). The last Application No. A/YL-KTN/539 for the same applied use and submitted by the same applicant as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 11.11.2016 for a period of 3 years. All the approval conditions have been complied with and the planning permission lapsed on 12.11.2019.
- 1.3 According to the applicant, a shed with a total floor area of about 30m² and building height of about 6m for use as rain/sun shelter is provided on the Site. Besides, a total of 12 lorries, vans or private cars are stored within the Site. No vehicles exceeding 5.5 tonnes will be parked / stored and no workshop will be

provided within the Site. The operation hours are between 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays. The Site is directly accessible from Kam Tin Road via the ingress/egress located to the southwest of the Site. The layout plan and fire service installations (FSIs) proposal as submitted by the applicant are in **Drawings A-1** and **A-2** respectively.

- 1.4 Comparing with the last approved application No. A/YL-KTN/539, the current application is for the same use at the same site with the same number of structure and similar site layout but with a slight decrease in total floor area (-6.8m² / -18%) and size of vehicles involved (not exceeding 24 tonnes to not exceeding 5.5 tonnes).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 17.9.2019 **(Appendix I)**
 - (b) Further Information (FI) received on 28.10.2019 **(Appendix Ia)** providing response to departmental comments
(exempted from publication)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in paragraph 9 and Annex 1 at **Appendix I**. They can be summarized as follows:

- (a) The development has a long history in serving the community and is a business complementing other car yards and car dismantling business along Kam Tin Road. It utilizes the land in a more centralized and efficient way for visitors to the area.
- (b) The vehicles will be transported or driven to the Site during day time and are likely to remain in the Site for one or two weeks before successful sale. Therefore, the number of trips generated will be relatively small.
- (c) An entrance gate of adequate size has been provided at the southwest corner of the Site. The section of Kam Tin Road adjacent to the Site is relatively straight and therefore the sightline distance from the entrance on both sides of the road is more than 125m.
- (d) The shed is for general shelter purpose only and there is no water or electricity supply and parking within the shed.
- (e) The applicant has adhered strictly to those recommendations/conditions in the previously approved application. No modification to the existing structures was made. Minimal environmental, traffic and drainage impacts had been generated in

preceding years.

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.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses’(TPB PG-No.13E) are relevant to the application. The Site is within Category 3 areas under TPB PG-No. 13E promulgated by the Town Planning Board (the Board) on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not a subject of any active enforcement case. It is noted that planning permission under application No. A/YL-KTN/539 for temporary open storage of vehicles (lorries, vans and private cars) for sale was granted by the Committee for a period of 3 years until 11.11.2019. Follow-up investigation will be taken upon expiry of the planning permission if the current application is not approved by the Board.

6. Previous Applications

6.1 The Site was involved in nine previous applications (No. A/YL-KTN/45, 76, 104, 179, 254, 332, 389, 486 and 539) submitted by the same applicant and covering similar site area as the current application. Application No. A/YL-KTN/45 for temporary open storage of car and car repairing workshop and the other eight applications for temporary open storage of vehicles (lorries, vans and private cars) for sale (with or without ancillary office) were all approved with conditions by the Committee. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1b**.

6.2 Applications No. A/YL-KTN/45 and No. A/YL-KTN/76 were approved by the Committee on 5.12.1997 and 27.11.1998 respectively. The approvals were given mainly on the considerations that a major part of the Site would be affected by the project “Improvement to Kam Tin Road – Stage II” which was scheduled to commence in 2002 and suitable temporary use would not frustrate the long-term planned development in the area; significant adverse environmental impact was not expected if adequate mitigation measures were provided and Director of Environmental Protection (DEP) had no adverse comments; separate direct access was provided for the site from Kam Tin Road and there was a local access for villagers in the north which would ensure the traffic from the site would not

affect the nearby village houses; and favourable consideration could be given to the applications as an interim arrangement to alleviate the acute shortage of open storage land in the area.

- 6.3 Other seven previous applications were all approved by the Committee between 2000 and 2016, mainly on the considerations that the developments were in line with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that previous planning approvals were given and the applicant had complied with approval conditions of the previous application; approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone; there was no change in the planning circumstances pertaining to the site since the granting of previous approvals; the developments were not incompatible with the surrounding land uses; there was no adverse departmental comments; and the departmental concerns could be addressed by imposition of appropriate approval conditions. However, the planning permission of application No. A/YL-KTN/486 was revoked on 18.12.2015 due to non-compliance with the approval condition on provision of fire extinguisher(s). For the last approved application No. A/YL-KTN/539, all the approval conditions had been complied with and the planning permission lapsed on 12.11.2019.

7. **Similar Applications**

- 7.1 There are 15 similar applications for various temporary open storage uses covering 5 sites within the same “R(D)” zone (except Applications No. A/YL-KTN/455 and 631 which straddle “R(D)” and “O” zones) on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.
- 7.2 14 applications (No. A/YL-KTN/312, 328, 336, 367, 381, 395, 455, 456, 462, 491, 580, 601, 631 and 635) were approved with conditions by the Committee between 2009 and 2019. The applications were approved mainly on the considerations that the developments on a temporary basis would not frustrate the long-term planning intention for the “R(D)” and / or “O” zones; there was no programme for development of the “O” zone by Government departments (Application No. A/YL-KTN/455 and 631 only); the developments were not incompatible with the surrounding land uses; and the approvals were in line with the TPB-PG No. 13E in that previous approvals were granted and there were no adverse departmental comment / local objection or departmental concerns could be addressed by approval conditions.
- 7.3 Application No. A/YL-KTN/345 was rejected by the Committee on 15.10.2010 mainly on the grounds that the application did not comply with the TPB-PG No. 13E in that no previous approval was granted and the applicant failed to demonstrate that the development would not generate adverse drainage, traffic

and landscaping impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.

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

8.1 The Site is:

- (a) fenced off and paved, and currently used for the applied use without valid planning permission; and
- (b) abutting the northern side of Kam Tin Road within Shek Kong San Tsuen with direct access from the road (**Plan A-2**).

8.2 The surrounding areas are intermixed with open storage yards, parking of vehicles, a tailor shop, residential dwellings/structures and vacant / unused land (**Plan A-2**):

- (a) to the immediate and further west are open storage yards for vehicles and vehicle parts, and one of them is covered by planning permission (Application No. A/YL-KTN/580);
- (b) to the immediate east is an access road. A tailor shop and parking of vehicles are located to the further east across the access road;
- (c) to the north are residential dwellings / structures (the nearest about 20m) and vacant / unused land; and
- (d) to the south is Kam Tin Road, and across which is the Shek Kong Barracks.

9. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized 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 the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot 667 in D.D. 110 is covered by Short Term Waiver (STW) No. 4478 to permit structures for the purpose of 'Temporary Open Storage of Vehicles (Lorries, Vans and Private Cars) for Sale'.
- (c) The Site is accessible from Kam Tin Road via Government Land (GL). His office provides no maintenance works for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure will not exceed the relevant airfield height limit within SKAHRA.
- (e) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD 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 LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering point of view.

- (b) No vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period.

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

- (a) HyD is not / shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) The applicant is 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 Sites” (“COP”) issued by DEP.

Nature Conservation

10.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC) :

Noting the Site has been paved and used for similar uses for some years, he has no adverse comment on the application from nature conservation point of view.

Drainage

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

- (a) He has no objection in principle to the development. Presumably, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/539.

- (b) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under the previous application No. A/YL-KTN/539 and to submit records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

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 by the Building Authority (BA) for the existing structures at the Site, BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being New Territories Exempted Houses) are erected on leased land without approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
 - (ii) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
 - (iii) Before any new buildings works (including containers / open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained. Otherwise, they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
 - (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulation 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.

- (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS)

- (a) He has no in-principle objection 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans. The applicant should also be advised to adhere to the good practice guidelines for open storage (**Appendix V**).
- (c) Having considered the nature of the open storage use, the condition on provision of fire extinguisher(s) within 6 weeks from the date of the planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS251) to his department for approval.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

He has not received any comments from locals on the application upon close of consultation and has no particular comments on the application.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager (West), West Development Office, Civil Engineering and Development Department;
- (c) Chief Engineer / Construction, Water Supplies Department; and
- (d) Commissioner for Police.

11. Public Comment Received During Statutory Publication Period

On 27.9.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one comment from an individual was received (**Appendix VI**). The comment objects to the application mainly on the grounds that brownfield sites should be developed in line with the zoning intention, and the Site is adjacent to an existing village hence would be suitable for low-rise residential development.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of vehicles (lorries, vans and private cars) for sale in “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for permanent development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 12.2 The development is not incompatible with the surrounding areas which are intermixed with open storage yards, parking of vehicles, a tailor shop, residential dwellings/structures and vacant / unused land. The closest residential dwelling / structure is about 20m to the north. Nevertheless, vehicles entering the Site will gain direct access from Kam Tin Road and hence would not pass by any residential structure.
- 12.3 According to TPB PG-No. 13E, the Site falls within Category 3 areas. The following guidelines are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals,

if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions, planning permission could be granted a temporary basis up to a maximum period of 3 years.

- 12.4 The development generally complies with TPB PG-No.13E in that previous approvals for the same open storage use at the Site (Applications No. A/YL-KTN/76, 104, 179, 254, 332, 389, 486 and 539) had been approved by the Committee since 1998. All approval conditions under the last approved application (No. A/YL-KTN/539) have been complied with and the planning permission lapsed on 12.11.2019. Also, relevant departments consulted, including C for T, DEP, D of FS and CE/MN of DSD have no adverse comment on the application. Compared with the last approved application No. A/YL-KTN/539, the current application submitted by the same applicant is the same in terms of applied use, site area/boundary, number of structure and a similar site layout but with a slight decrease in total floor area (-6.8m² / -18%) and size of vehicles involved (not exceeding 24 tonnes to not exceeding 5.5 tonnes). As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.
- 12.5 To address the possible environmental nuisance, approval conditions restricting the operation hours and vehicle type and prohibiting workshop activities are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to undertake the relevant mitigation measures and requirements as set out in the latest COP. In addition, the technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (e) to (j).
- 12.6 There are 14 similar applications for various temporary open storage within the same "R(D)" zone approved with conditions by the Committee between 2008 and 2019 as mentioned in paragraph 7.2 above. Approving the current application is in line with the Committee's previous decisions on these similar applications.
- 12.7 One public comment raising objection to the application was received during the statutory publication period as stated in paragraph 11 above. In this regard, the departmental comments as well as planning considerations and assessments as stated above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken account of the public comment in paragraph 11, the Planning Department considers that the temporary open storage of vehicles (lorries, vans and private cars) for sale 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 15.11.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of records 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 15.2.2020;
- (h) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) 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 27.12.2019;
- (i) the submission of 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 15.5.2020;

- (j) in relation to (i) above, the implementation of 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 15.8.2020;
- (k) if any of the above planning condition (a), (b), (c), (d), (e) or (f) 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 condition (g), (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 attached at **Appendix VII**.

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

the development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

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 plans received on 17.9.2019
Appendix Ia	Further Information (FI) received on 28.10.2019 providing response to departmental comments
Appendix II	Relevant extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous s.16 applications covering the application Site
Appendix IV	Similar applications within the same “R(D)” zone on the Kam Tin North OZP
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendix VI	Public Comment received during the Statutory Publication Period
Appendix VII	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	FSIs Proposal
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2019**