

**APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTN/595

<u>Applicant</u>	:	Mr. TENG Chieh
<u>Site</u>	:	Lot 475 in D.D. 109, Kam Tin Road, Kam Tin, Yuen Long
<u>Site Area</u>	:	1,141.25m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	:	“Village Type Development” (“V”) [maximum building height of 3 storeys (8.23m)]
<u>Application</u>	:	Proposed Temporary Open Storage of Vehicles and Sales of Construction Machinery Parts 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 vehicles and sales of construction machinery parts for a period of 3 years. The Site is not subject of any previous application. The Site is partly fenced, vacant and covered by vegetation (**Plans A-2 to A-4d**).
- 1.2 According to the applicant, the Site will be occupied by 2 one-storey structures with total floor area of 29.768m² for storage use. A parking space and a loading/unloading space will be provided within the Site. Only vehicles of not exceeding 5.5 tonnes will enter/exit the Site. The Site is accessible to Kam Tin Road via a local track. The operation hours are from 8:00 am to 7:00 pm from Mondays to Sundays. There will be no operation on labour holidays. The site layout plan, drainage plan and vehicular access plan as submitted by the applicant are shown in **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and plans received on 7.3.2018 **(Appendix I)**

- (b) Further information (FI) received on 11.4.2018 clarifying the parking arrangement and providing trip generation of the Site **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 20.4.2018 clarifying the manoeuvring space, parking provision, location of vehicular access and trip generation in response to departmental comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
- (d) FI received on 25.4.2018 clarifying the traffic arrangement in response to departmental comments **(Appendix Ic)**
(accepted and 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 paragraph 9 of the application form in **Appendix I**. They can be summarized as follows:

- (a) The Site is vacant for years. It is covered with weeds and becomes possible breeding grounds for mosquitos. The proposed development at the Site could help to enhance the environmental hygiene.
- (b) There are a number of workshops in the Pat Heung area for vehicles or machinery parts. However, since there is insufficient of land, there is dumping of vehicles parts or vehicles at the roadside which affects the safety of pedestrian and driver. The proposed development could improve this situation.
- (c) With the proposed operation hours, no noise impact on the nearby residents is expected.

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

The applicant is not the “current land owner”. However, the applicant 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. 31) by posting site notice and sending registered post to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Site falls within Category 4 areas under the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (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 not subject to any active enforcement case.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

7.1 There is no similar application for open storage use since the promulgation of TPB PG-No. 13E on 17.10.2008 within the same “V” zone on the OZP.

7.2 Application No. A/YL-KTN/596 for proposed temporary open storage of vehicles and sales of construction machinery parts for a period of 3 years which is the same use submitted by the same applicant as the current application located at the immediate northeast of the Site (**Plan A-1**) is scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

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

8.1 The Site is:

- (a) partly fenced, vacant and covered by vegetation; and
- (b) accessible via a local track branching off from Kam Tin Road.

8.2 The surrounding area is a mix of residential development namely Season Monarch, Shek Kong Barracks, open storage/storage yards, a warehouse and vacant/unused land. The open storage / storage yards are suspected UD subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to its east are open storage/ storage yards, warehouse and vacant/unused land. To its immediate northeast is a vacant site subject to planning application No. A/YL-KTN/596 for proposed temporary open storage use submitted by the same applicant as the current application to be considered by the Committee at the same meeting. A residential development namely Season Monarch is located at its further northeast;
- (b) to its south are vacant/unused land and amenity areas. To its further south across Kam Tin Road is Shek Kong Barracks;
- (c) to its west is vacant/unused land; and

- (d) to its north is a residential dwelling/structure (about 20m away). Across a nullah of its further north, there are some open storage/ storage yards and vacant/unused land.

9. **Planning Intention**

The planning intention of the “V” is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Town Planning Board (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) The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
 - (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
 - (d) Should planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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 the LandsD.

- (e) There is no Small House application approved or under processing within the Site.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be incorporated.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) HyD does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) A substantiated environmental complaint on waste aspects for dumping of construction waste was received in January 2016.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites” (the COP), he does not support the application as there are sensitive receivers nearby (the nearest is at its immediate about 20m on the north) (**Plan A-2**) and in the vicinity of the Site, and environmental nuisance is expected.
- (c) Should the application be approved, 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” issued by DEP.

Nature Conservation

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

- (a) As the Site is located within “V” zone and is surrounded by temporary structures, he has no adverse comment on the application from nature conservation point of view.
- (b) Nonetheless, there is an abandoned meander (95CD-6) (**Plan A-2**) located to the north of the Site. Should the application be approved, the applicant should be advised to adopt appropriate measures to prevent polluting the meander.

Landscape

10.1.6 Comments of Chief Town Planner/ Urban Design and Landscape Section (CTP/UD&L, PlanD):

- (a) She has reservations on the application from the landscape planning perspective.
- (b) The Site is predominantly in rural character and comprises of tree groups interspersed with village clusters and occasional open storages. Similar land use can be found in close proximity of the Site. The proposed use is considered not incompatible with the existing landscape context.
- (c) Based on the site inspection in March 2018, the Site is currently vacant covered with wild groundcovers and tree groups in good to fair condition. According to the proposed layout plan, the proposed use is in direct conflict with existing trees and tree felling is necessary. However, according to paragraph 8 of the application form, the applicant mentioned that no tree felling will be involved in the proposed development. Although the existing trees are either common or invasive species in Hong Kong, these trees form part of the tree groups in the area which is the major landscape resources in proximity. Moreover, no landscape proposal is provided to alleviate the potential permanent adverse impact to surrounding environment in particular the residential developments to its northeast due to the proposed temporary development.
- (d) Should the application be approved, approval condition on submission and implementation of landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the Board should be included.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view..
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and implementation of the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board should be included.
- (c) Detailed comments on the drainage proposal are at **Appendix III**.

Fire Safety

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

- (a) He has no in-principle objection to the application 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage site in **Appendix IV** should be adhered to.
- (c) Having considered the nature of the open storage use, the condition on the 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 Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Electricity

10.1.9 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.

- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

Building Matters

10.1.10 Comments of the Chief Building Surveyor/NT West, Buildings Department (CBS/NTW, BD):

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the 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.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

District Officer's Comments

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

His office has not received any comments from locals upon close of consultation and he has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager(West), Civil Engineering and Development Department (PM(W), CEDD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

11.1 On 20.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 10.4.2018, eleven comments from a Yuen Long District Council member and general public were received (**Appendices V-1 to V-11**).

11.2 All commenters objected the application mainly on the grounds that the proposed development is located close to residential development and will generate noise, hygiene, fire safety, traffic, environmental and visual impacts on the surroundings; affect the quality of life and natural environment and will have security problems; the application appears to legitimize an ongoing brownfield operation; open storage is incompatible with the "V" zone; the toxins from operation may leach into the ground and cause environmental degradation and endanger the health of future residents; storage should be accommodated in purpose built parks; and approval of the application would encourage further substandard and inappropriate land uses.

12. Planning Considerations and Assessments

12.1 The Site falls within Category 4 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant.

12.2 Category 4 areas: these are areas with ponds or wetland or with extensive vegetation or close to environmentally or ecologically sensitive areas, areas which are mostly used for residential purpose or proposed for such purposes, areas near existing major village settlements or areas subject to extremely high flooding risk. Applications for open storage and port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, 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 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. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. Since the planning intention of Category 4 areas is to phase out the open storage and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits.

- 12.3 The proposed temporary open storage of vehicles and sales of construction machinery parts for a period of 3 years is not in line with the planning intention of the "V" zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. According to DLO/YL of LandsD, there is no Small House application approved or under processing at the Site. Nevertheless, no strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis.
- 12.4 The proposed development is not compatible with the surrounding land uses which include a residential development namely Seasons Monarch and a residential dwellings/structure in the same "V" zone (**Plan A-2**). There is no information in the submission to demonstrate that the proposed use would not create adverse impacts on the surrounding environment. DEP does not support the application as there are residential dwellings/structures in the vicinity (i.e. the nearest one is about 20m on the north) (**Plan A-2**), and environmental nuisance is expected. Although there are open storage/storage yards in the vicinity, most of them are suspected unauthorized developments subject to enforcement action by the Planning Authority. CTP/UD&L also has reservation on the application as the proposed use is in direct conflict with existing trees and tree felling is necessary but it was not mentioned in the applicant's proposal. Also, no landscape proposal is provided to alleviate the potential permanent adverse impact to surrounding environment in particular the residential developments to its northeast due to the proposed temporary development.
- 12.5 The development is not in line with the TPB PG-No. 13E in that applications for open storage and port back-up use in Category 4 areas would normally be rejected except under exceptional circumstances. In this regard, there is no exceptional circumstances in the current application that warrant sympathetic consideration in the Category 4 area. Besides, no previous approval for open storage use had been granted at the Site; and there is adverse departmental comment on the application (i.e. DEP). In this connection, the applicant fails to demonstrate that the development would not generate adverse environmental nuisance on the surrounding areas.
- 12.6 There is no similar application within the same "V" zone since the promulgation of TPB PG-No. 13E on 17.10.2008 on the OZP. There is another similar application (No. A/YL-KTN/596) for the same proposed use submitted by the same applicant as the current application to be considered by the Committee at this meeting (**Plan**

A-1). Approval of the current application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

- 12.7 Eleven objecting comments were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the planning considerations and assessments above are relevant.

13. Planning Department’s View

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the development is not in line with the planning intention of the “V” zone which is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the TPB PG-No. 13E in that the development is not compatible with the surrounding land uses which are predominated by residential structures/dwellings. There is also no previous approval granted at the Site and there is adverse departmental and public comment against the development;
- (c) the applicant fails to demonstrate that the development would not generate environmental nuisance on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into this part of the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13.2 Alternatively, 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 2 years, instead of 3 years period sought, until 4.5.2020 to monitor the situation on the Site. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on labour 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 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 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 provision of the boundary fence for the Site within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.11.2018;
- (g) the submission of landscape and tree preservation proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.11.2018;
- (h) in relation to (g) above, the implementation of landscape and tree preservation proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.2.2019;
- (i) the submission of 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 4.11.2018;
- (j) in relation to (i) 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 4.2.2019;
- (k) the provision of fire extinguisher(s) within **6** weeks with a valid fire certificate (FS 251) from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.6.2018;
- (l) the submission of fire services 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 4.11.2018;
- (m) in relation to (l) above, the implementation of fire services 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 4.2.2019;
- (n) if any of the above planning conditions (a), (b), (c), (d) or (e) 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;

- (o) if any of the above planning conditions (f), (g), (h), (i), (j), (k), (l) or (m) 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; and
- (p) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

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 7.3.2018
Appendix Ia	FI dated 11.4.2018
Appendix Ib	FI received on 20.4.2018
Appendix Ic	FI received on 25.4.2018
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	Detailed comments of CE/MN, DSD
Appendix IV	Good Practice Guidelines for Open Storage Sites
Appendices V-1 to V-11	Public comments received during the statutory publication period
Appendix VI	Advisory Clauses

Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	Vehicular Access Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a to A-4d	Site Photos

**PLANNING DEPARTMENT
MAY 2018**