

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/500

<u>Applicant</u>	:	Ms. LEUNG Hin Ching May
<u>Site</u>	:	Lot 1680 in D.D. 118, Tai Tong, Yuen Long, New Territories
<u>Site Area</u>	:	648 m ² (about)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plans</u>	:	Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17 (currently in force) Approved Tai Tong OZP No. S/YL-TT/16 (at the time of submission)
<u>Zoning</u>	:	“Agriculture” (“AGR”) <i>[The zoning remains unchanged on the current OZP]</i>
<u>Application</u>	:	Proposed Temporary Open Storage of Construction Materials and Ancillary Car Park for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of construction materials and ancillary car park for a period of 3 years (**Plan A-1**). Although the subject use is neither a Column 1 or 2 use for the “AGR” zone, according to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently partly occupied by the applied use without valid planning permission and partly vacant (**Plans A-2 and A-4**).
- 1.2 Majority of the Site was the subject of a previous application (No. A/YL-TT/100) covering a larger site for temporary open storage of building/gardening materials and containers for storage use for a period of 3

years which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 20.4.2001. Detailed information of the previous application is at paragraph 6 and **Appendix III** and the location of the site is shown on **Plan A-1**.

- 1.3 According to the applicant, construction materials will be loaded/unloaded occasionally by truck and/or van. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 The major development parameters of the application are summarised as follows:

Site Area	About 648 m ²
Total Floor Area (Non-domestic)	About 36 m ²
No. and Height of Structures	2 <ul style="list-style-type: none">• one for storage of construction material (3m, 1 storey)• one for electricity metre room (3m, 1 storey)
No. of Parking Spaces	2 for private car
Operation Hours	9:00 a.m. to 9:00 p.m. daily

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

- (a) Application Form with plans received on 10.6.2020 (**Appendix I**)
- (b) Further Information (FI) received on 21.7.2020 (**Appendix Ia**) responding to the comments of the Transport Department
[exempted from publication and recounting requirements]

- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.8.2020 for consideration of the application has been rescheduled, and the Town Planning Board has agreed to defer consideration of the application and the application is now scheduled for consideration by the Committee at this meeting.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I** and FI at **Appendix Ia**. They can be summarised as follows:

- (a) The Site has long been used for storage of construction materials and vehicles, hence the application is submitted with a view to regularising the land use.

- (b) Sufficient space would be provided within the Site for the manoeuvring of vehicles. Only 1 to 2 private cars will enter/exit the Site bi-weekly.

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

The applicant is one of the “current land owners” and 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 obtaining consent of another current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) are relevant to the application. The Site falls within Category 3 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 subject to planning enforcement action against unauthorised development (UD) involving storage use (including deposit of container). Enforcement Notice (EN) was issued to the concerned parties on 3.4.2020 requiring discontinuation of the UD (**Plan A-2**). Upon expiry of the EN, the UD on site has not been discontinued. Further enforcement action is being considered for the case.

6. Previous Application

6.1 Majority of the Site was the subject of a previous application (No. A/YL-TT/100) covering a larger site for similar temporary open storage use (i.e. open storage of building/gardening materials and containers for storage) for a period of 3 years, which was rejected by the Committee on 20.4.2001 mainly on the grounds that the proposal was not in line with the planning intention of the “AGR” zone; not compatible with the surrounding rural land uses; no information to demonstrate that the development would not generate adverse environmental and drainage impacts on the surrounding areas; no information to demonstrate why suitable sites within “Open Storage” (“OS”) zones could not be made available for the development; and setting of undesirable precedent for other similar uses in the subject “AGR” zone. Details of the application are summarised in **Appendix III** and the boundary of the site is shown on **Plan A-1**.

6.2 Compared with the last application, the current application is submitted by a different applicant on a smaller site for similar open storage use with different layout and development parameters.

7. Similar Applications

A total of 9 similar applications (No. A/YL-TT/234, 256, 292, 323, 336, 339, 346, 348 and 428) for various types of temporary open storage use with/without warehouse uses in the subject “AGR” zone had been considered by the Committee or the Board on review since 17.10.2008. All 9 applications were rejected by the Committee or by the Board on review between 2009 and 2018 mainly on similar grounds as mentioned in paragraph 6.1 and incompliance with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses. Details of the applications are summarised in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from Tai Shu Ha Road East to its northwest via a local track (**Plan A-3**);
- (b) fenced off and paved with asphalt and gravel; and
- (c) partly occupied by the applied use without planning permission and partly vacant.

8.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) predominantly rural in character comprising open storage/ storage yards and warehouses with scattered residential structures, graves, pond and unused land;
- (b) to its northwest in an area zoned “OS” with open storage use and vacant land;
- (c) there are residential structures in the vicinity with the nearest ones located 40m to the north of the Site; and
- (d) the aforementioned open storage/ storage yards and warehouses in the subject “AGR” zone are mostly suspected UD subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their comments on the application 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 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) Should planning approval be given to the planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or to 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 her 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 applicant was required to provide the trip generation and attraction due to the normal operation of the proposed development, including delivery of construction material for storage. This comment has not been addressed.
- (b) The land status of the access road/path/track leading to the Site from Tai Shu Ha Road East shall be checked with the lands authority.
- (c) The management and maintenance responsibilities of the access road/path/track shall be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (d) 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) His department shall not be responsible for the maintenance of any access connecting the Site and Tai Shu Ha Road East.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

- (a) The application is not supported from agricultural point of view as the Site possesses potential for agricultural rehabilitation.
- (b) The Site falls within the “AGR” zone and is currently paved. Although the agricultural activities are not active in the vicinity, agricultural infrastructure such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries etc.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Should the planning application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise any potential environmental nuisances on the surrounding area.

Landscape

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

- (a) She has reservations on the application from landscape planning perspective.

- (b) With reference to the aerial photo of 2019 (**Plan A-3**) and site photos taken on 8.7.2020 (**Plan A-4**), the Site is generally asphalt and/or gravel paved with small patches of wild grass observed. The Site is situated in an area of miscellaneous rural fringe landscape character predominated by woodlands and farmlands with quite a number of temporary structures and open storage yards found in the proximity. The proposed development is considered not entirely incompatible with the existing landscape character of the surrounding environment.
- (c) When comparing the aerial photos of 2001 to 2019 and the site photos taken on 8.7.2020, substantial vegetation clearance and paving of the Site have been carried out over the years. Significant landscape impact has taken place. Besides, similar planning applications in the vicinity within the “AGR” zone were also rejected by the Board. Approval of this application would set an undesirable precedent to encourage similar applications to undertake vegetation clearance and paving the site prior to obtaining planning approval. The cumulative impact of which would result in a general degradation of the landscape quality of the immediate surrounding environment and undermine the planning intention of the “AGR” zone.

Drainage

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

- (a) He has no objection in principle to the proposed 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

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The applicant should observe 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

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

The applicant should note the detailed comments at **Appendix VII**.

District Officer's Comments

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

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

11. Public Comments Received During Statutory Publication Period

On 19.6.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, ten public comments objecting to the application were received from World Wide Fund for Nature Hong Kong (**Appendix VI-1**), Kadoorie Farm and Botanic Garden Corporation (**Appendix VI-2**), The Hong Kong Bird Watching Society (**Appendix VI-3**), Designing Hong Kong Limited (**Appendix VI-4**) and six individuals (**Appendices VI-5 to VI-10**). The former five comments objected to the application mainly on the reasons that the development is not in line with the planning intention; the Site is the subject of an EN for storage use and no compliance notice has been issued yet; approval of this “destroy first, develop/apply later” case would set an undesirable precedent; and potential adverse sewerage impact on the surroundings. The other five individuals (**Appendices VI-6 to VI-10**) objected to the application mainly on the reasons that the

access road to nearby residences has been blocked by the Site; the access road is not suitable for heavy vehicles and the proposal may pose safety issue to the nearby residents.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of construction materials and ancillary car park for a period of 3 years at a site zoned “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural point of view as the Site possesses potential for agricultural rehabilitation and can be used for agricultural activities, such as greenhouses and plant nurseries, etc. No strong planning justifications have been provided in the submission for a departure from the planning intention, even on a temporary basis.

12.2 The Site is situated in a rural area mainly with open storage/ storage yards and scattered residential structures. The proposal is not entirely incompatible with the surrounding land uses.

12.3 The Site falls within Category 3 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. Planning permission could be granted on a temporary basis up to a maximum period of three years, 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

12.4 The application is not in line with TPB PG-No. 13F in that the Site falls within Category 3 areas and no previous approval for similar open storage uses have been granted to the Site, there are insufficient information that the proposed development would not cause adverse traffic impact on the surroundings, and there are objection from DAFC and reservation from CTP/UD&L, PlanD on the application. There is no information in the submission to demonstrate that the applied use would not generate adverse traffic and landscaping impacts on the surrounding area.

12.5 There are one previous application (No. A/YL-TT/100) and nine similar

applications for similar open storage use with/without warehouse uses within the same “AGR” zone, which were all rejected by the Committee or by the Board on review. Rejecting the current application is generally in line with the Committee’s previous decisions. Approval of the current application will set an undesirable precedent. The cumulative effect of approving such similar applications, even on a temporary basis, would result in a general degradation of the rural environment and landscape quality of the area.

12.6 There are ten public comments received during the statutory publication period objecting to the application for the reasons as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 above 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 mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:

- (a) the applied use is not in line with the planning intention of the “AGR” zone which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the development is not in line with the Town Planning Board Guidelines No. 13F “Application for Open Storage and Port Back-up Uses” in that no previous approval has been granted to the Site and there are adverse departmental comments and local objections; and
- (c) the approval of the application would set an undesirable precedent for similar applications within the “AGR” 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 3 years until 15.9.2023. The following approval conditions and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no repairing, dismantling, cleansing, paint-spraying or any other workshop activities shall be carried out on the Site at any time during

the planning approval period;

- (c) 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;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) the 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 15.3.2021;
- (g) in relation to (f) 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 15.6.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the provision of fire extinguisher(s) with 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 27.10.2020;
- (j) 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 15.3.2021;
- (k) in relation to (j) 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 15.6.2021;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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;
- (m) if any of the above planning conditions (f), (g), (i), (j) or (k) 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
- (n) upon the 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 VII**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form with plans received on 10.6.2020
Appendix Ia	FI received on 21.7.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous Application covering the Site
Appendix IV	Similar Applications within the Subject “AGR” Zone on the OZP since 17.10.2008
Appendix V	The Good Practice Guidelines for Open Storage Sites
Appendices VI-1 to 10	Public Comments Received During Statutory Publication Period
Appendix VII	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**