

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/513

- Applicant** : Ms. Kwok Wa Mui April
- Site** : Lot 1028 (Part) in D.D. 117, Tai Tong, Yuen Long, New Territories
- Site Area** : 200 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/17
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Vehicle Repair Workshop for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary vehicle repair workshop for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). Although the applied use is neither a Column 1 or 2 use in the “AGR” zone, the Covering Notes of the OZP stipulate that 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. Furthermore, filling of land requires planning permission from the Board. The Site is currently occupied by the applied use without valid planning permission (**Plans A-2** and **A-4**) and does not involve any previous application.
- 1.2 According to the applicant, the vehicle repair workshop will be operated in a structure converted and extended from an existing chicken shed at the Site. Except repairing of antique cars, no other workshop activities will be carried out at the Site. Furthermore, no goods vehicles will be allowed to enter the Site. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

1.3 The major development parameters of the application are summarised as follows:

Site Area	About 200 m ²
Total Floor Area (Non-domestic)	About 200 m ²
Depth of Filling of Land	0.15 m (covering the whole Site)
No. and Height of Structure	1 (5.5m, 1 storey)
No. of Vehicle Repairing Bays	6 (for private cars)
No. of Parking and Loading/ Unloading (L/UL) Space	Nil
Operation Hours	9:00 a.m. to 7:00 p.m. daily

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

- (a) Application Form with plans received on 5.1.2021 (Appendix I)
- (b) Supplementary Information received on 8.1.2021 (Appendix Ia) clarifying the operation
- (c) Further Information (FI) received on 3.2.2021 (Appendix Ib) clarifying the operation
- (d) FI received on 10.2.2021 clarifying the operation (Appendix Ic)
[(c) and (d) 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 Application Form and FI (Appendices I and Ic). They can be summarised as follows:

- (a) Agriculture is declining in Hong Kong. The operation cost of poultry farming was inflating and the income was unstable. As such, the applicant proposed to convert part of the chicken shed as vehicle repair workshop.
- (b) The application is in line with the relevant requirements for the applied use as set out in the Hong Kong Planning Standards and Guidelines. There will be no adverse traffic, visual, environmental, landscape, drainage, sewerage and geotechnical impacts arising from the proposal.

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 through registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action against unauthorised development (UD) involving workshop use. Enforcement Notice (EN) was issued to the concerned parties on 20.10.2020 requiring discontinuation of the UD (**Plan A-2**). Upon expiry of the EN, the UD on the Site has not been discontinued. Further enforcement action is being considered for the case.

5. Previous Application

There is no previous planning application concerning the Site.

6. Similar Application

There is no similar application for temporary vehicle repair workshop within the subject “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) accessible from Pak Sha Shan Road to its west via a local track (**Plans A-2 and A-3**); and
- (b) currently occupied by the applied use without valid planning permission (**Plans A-2 and A-4**).

7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) rural fringe in nature consisting mainly plant nursery, agricultural land, residential structures, unused land and vacant land generally due east of the Site, while the area generally due west consists mainly open storage/storage yards and warehouses intermixed with a residential structure, a car service and vacant structures;
- (b) there are residential structures in the vicinity of the Site with the nearest ones to its immediate southeast and south;
- (c) to the further northwest of the Site is an area zoned “Other Specified Uses” annotated “Rural Use” (“OU(RU)”) on the subject OZP; and
- (d) the open storage/storage yards, warehouse and car service in the vicinity are suspected UD subject to enforcement action taken by the Planning Authority.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 8.2 According to the Explanatory Statement, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities in the “AGR” zone.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and the public comments, where relevant, are summarised as follows:

Land Administration

- 9.1.1 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 subject 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 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

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) The applicant was required to provide hourly trip generation and trip attraction of the development, swept path checking to demonstrate how the towing vehicle (together with the car being towed) travels from Pak Sha Shan Road into the unnamed road and vice versa, clarifications on how the L/UL need would be satisfied and layout plan with dimension showing the six proposed vehicle repairing bays. These comments have not been addressed.

- (b) The land status of the access road/path/track leading to the Site from Pak Sha Shan Road 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.

9.1.3 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 Pak Sha Shan Road.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) Should the planning application be approved, the applicant should be reminded of the detailed comments at **Appendix III**.

Agriculture

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

- (a) She does not support the application from agricultural point of view.
- (b) The Site falls within the “AGR” zone and is currently an enclosed area. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access are also available. The Site possesses potential for agricultural rehabilitation and can be used for agricultural activities such as greenhouses, plant nurseries, etc.

Landscape

9.1.6 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) According to the aerial photo of 2020 (**Plan A-3**) and the site photos taken on 1.2.2021 (**Plan A-4**), the Site is a small strip of hard-paved land fully occupied by two temporary structures. The applied use appears to be already in operation. No existing tree is observed within the Site. The Site is located in an area of miscellaneous rural fringe landscape character predominated by farmlands, village houses and woodlands with some suspected UD of workshops, storages and warehouses in the vicinity. The applied use is considered not entirely incompatible with the existing landscape character of the surrounding area. Although further adverse landscape impact arising from the development is not envisaged, given that there is no similar application previously approved within the same “AGR” zone, there is concern that approval of the planning application may encourage other similar applications in the “AGR” zone. The cumulative impact of which would result in further degradation of the landscape quality of the surrounding environment of the “AGR” zone.

Drainage

9.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (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 the application acceptable from the planning point of view, approval conditions requiring 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

9.1.8 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) 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, should the planning application be approved, the applicant should be reminded of the detailed comments at **Appendix III**.

Building Matters

- 9.1.9 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) Should the planning application be approved, the applicant should be reminded of the detailed comments at **Appendix III**.

Long-Term Development

- 9.1.10 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, PlanD (CE/CID, PlanD):

The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan of YLS promulgated in May 2020, the Site falls within an area zoned “AGR”.

- 9.1.11 Comments of the Project Manager (West), CEDD (PM (W), CEDD):
- (a) He has no objection to the application.
 - (b) Based on the preliminary project boundary of the proposed YLS Development, the Site 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.

District Officer’s Comments

- 9.1.12 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.

- 9.2 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); and
 - (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 12.1.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received from three individuals, Kadoorie Farm and Botanic Garden Corporation (KFBG), Designing Hong Kong Limited and World Wild Fund for Nature Hong Kong (WWF). Two individuals, KFBG, Designing Hong Kong Limited and WWF objected to the application mainly on the grounds that the proposal with additional traffic will lead to adverse environmental and traffic impacts, pose fire safety risks and undermine the living quality and safety of the nearby villagers; not in line with the planning intention of the “AGR” zone; the applied use may be associated with “Destroy First, Development/Apply Later” practice; and approval of the application would set an undesirable precedent (**Appendices II-1 to II-5**). The remaining individual opined that brownfield site should not be allowed to proliferate and the proposal will cause land contamination (**Appendix II-6**).

11. Planning Considerations and Assessments

- 11.1 The application is for temporary vehicle repair workshop for a period of 3 years and filling of land at the 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. In this regard, DAFC does not support the application from agricultural point of view as there are active agricultural activities and agricultural infrastructure (such as road access) in the vicinity of the Site and the Site possesses potential for agricultural rehabilitation. No strong planning justifications have been given in the submission for a departure from the planning intention, even on a temporary basis. There is also no justification to substantiate why filling of land is needed to facilitate the applied use.
- 11.2 The Site is located within the “AGR” zone in a rural fringe area mixed with open storage/storage yards, warehouses, agricultural land and residential structures (**Plan A-2**). Although the applied use is considered not incompatible with the open storage/storage yards and warehouses in the vicinity, most of these uses are suspected UD subject to enforcement action being taken by the Planning Authority.
- 11.3 C for T is of the view that information on hourly trip generation and trip attraction, L/UL arrangement, layout plan with dimensions showing the vehicle repair bays as well as swept path information should be provided. In this connection, there is no relevant information provided in the submission to address the comments of the C for T or to demonstrate that the proposal will not generate adverse traffic impacts. Other relevant departments, including DEP, CE/MN, DSD and D of FS, have no objection to/adverse comments on the application.
- 11.4 There is no previous approval granted to the Site nor similar application within the subject “AGR” zone. Approval of the current application would set an undesirable precedent. CTP/UD&L, PlanD considered that the cumulative effect of approving such similar applications, even on a temporary basis, would result in further degradation of the landscape quality of the surrounding area.

11.5 There were six public comments, including five objecting comments, received during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as summarised in paragraph 10, 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 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 to justify a departure from the planning intention, even on a temporary basis. The applicant also fails to justify the need for land filling; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse traffic impact on the surrounding area.

12.2 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 26.2.2024. 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) except vehicle repairing, no other workshop activities, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (c) only private cars as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (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 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 26.8.2021;

- (f) in relation to (e) 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 26.11.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 26.8.2021;
- (i) in relation to (h) 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 26.11.2021;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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
- (l) 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 at **Appendix III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

14. Attachments

- Appendix I** Application Form with Plans received on 5.1.2021
- Appendix Ia** Supplementary Information received on 8.1.2021

Appendix Ib	FI received on 3.2.2021
Appendix Ic	FI received on 10.2.2021
Appendices II-1 to II-6	Public Comments received during the Statutory Publication Period
Appendix III	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	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
FEBRUARY 2021**