

RNTPC Paper No. A/YL-SK/236
For Consideration by
the Rural and New Town
Planning Committee
on 4.5.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/236

<u>Applicant</u>	: Mr. Chan Yuk Kim
<u>Site</u>	: Lot 297 S.A RP (Part) in D.D.112, Kam Sheung Road, Yuen Long
<u>Site Area</u>	: About 192 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: "Residential (Group D)" ("R(D)") [maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Open Storage of Machineries for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction materials for a period of 3 years. The Site is currently fenced, paved and vacant, and forms an extension of an open storage for machineries adjoining the Site to its north. (Plans A-2 to A-4)
- 1.2 Part of the Site was involved in one previous application No. A/YL-SK/36 submitted by the same applicant for the same use as the current application for a period of 12 months and was rejected by the Town Planning Board (the Board) on review on 27.6.1997.
- 1.3 According to the applicant, no structures will be provided at the Site. The Site is accessible via the existing open storage yard to the north of the Site (which is also owned by the applicant) to Kam Sheung Road (Drawing A-2). The operation hours are from 8 a.m. to 6 p.m. Mondays to Saturdays. There is no

operation on Sundays and statutory holidays. The location and vehicular access plan submitted by the applicant is in Drawings A-1 and A-2.

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

- (a) Application form dated 7.3.2018 (Appendix I)
- (b) Supplementary Information dated 15.3.2018 (Appendix Ia)
- (c) Further Information (FI) received on 11.4.2018 in response to departmental comments
(*accepted and exempted from publication and recounting requirements*) (Appendix Ib)
- (d) FI received on 18.4.2018 in response to departmental comments
(*accepted and exempted from publication and recounting requirements*) (Appendix Ic)
- (e) FI received on 25.4.2018 in response to departmental comments
(*accepted and exempted from publication and recounting requirements*) (Appendix Id)
- (f) FI received on 26.4.2018 in response to departmental comments
(*accepted and exempted from publication and recounting requirements*) (Appendix Ie)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Appendices Ib and Ie. They can be summarized as follows:

The applicant is the sole current land owner of the lot (Lot 297 S.A RP) and part of the lot abutting Kam Sheung Road has been used as an open storage of machineries. No adverse traffic impact on Kam Sheung Road is anticipated.

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

The Site falls within Category 3 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

- 5.1 The Site is currently not the subject of any active enforcement case and there is currently no enforcement action against it. The use of the Site for storage use without a valid planning permission constitutes an unauthorized development (UD) under the Town Planning Ordinance (the Ordinance). Should there be sufficient evidence to prove that the use on Site is an UD under the Ordinance, appropriate enforcement action will be taken.
- 5.2 The existing storage use at the remaining portion of the lot (i.e. the northern portion of Lot 297 S.A PR in D.D. 112 abutting Kam Sheung Road) is an existing use as at the gazettement of the Shek Kong Interim Development Permission Area (IDPA) Plan on 5.10.1990.

6. Previous Application

- 6.1 Part of the Site was involved in one previous application No. A/YL-SK/36 submitted by the same applicant for the same use as the current application. Details of the application are summarized in Appendix III and its location is shown on Plan A-1.
- 6.2 Application No. A/YL-SK/36 for proposed temporary open storage of machinery covering a larger site (276m²) for a period of 12 months was rejected by the Board on review on 27.6.1997 on the grounds that the proposed development was not in line with the planning intention of the "R(D)" zone; it was not compatible with the surrounding rural area and the village settlement; approval of application would set an undesirable precedent and the cumulative effect of which would further degrade the environment of the area.

7. Similar Application

There is no similar application within the same "R(D)" zone since the promulgation of the TPB PG-No. 13E on 17.10.2008.

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

8.1 The Site is:

- (a) fenced, paved and vacant; and
- (b) accessible to Kam Sheung Road via the ingress/egress of the open storage site adjoining the Site to the north.

8.2 The surrounding areas are rural in character mixed with open storage/storage yards, a vehicle workshop, residential dwellings/structures, vacant/unused land and a plant nursery:

- (a) to its immediate north is an open storage of machineries which is an existing use as at the gazetting of the Shek Kong IDPA Plan on 5.10.1990. To its further north across Kam Sheung Road is a plant nursery;
- (b) to its east are an open storage yard, a vehicle workshop and unused land; and
- (c) to its immediate west and south is vacant land and to its further west is a residential development (about 50m away).

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 297 S.A RP (Portion) in D.D. 112 is covered by a STW No. 2223 to permit structures erected thereon for the purpose of "storage of machinery".
- (c) The Site is accessible to Kam Sheung Road via Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limited within SKAHRA.
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions to regularized any irregularities (if any) on Site. Such application(s) 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 the LandsD.

Traffic

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

- (a) Noting that the proposed development makes use of an existing vehicular access at D.D. 112 Lot 297 S.A RP from Kam Sheung Road and the respective additional traffic generated is limited, 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 included.

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

Noting that the proposed development will use the existing vehicular access at Lot 297 S.A RP in D.D. 112 from Kam Sheung Road, he has no comment on the application from the highways maintenance point of view.

Environment

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

- (a) There was no substantiated environmental complaint received in the past three years.
- (b) In accordance with the latest "Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites" (COP) issued by DEP, he does not support the application as sensitive receivers, i.e. residential dwellings, are found in the vicinity (the nearest is about 50m to its west (Plan A-2), 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 COP issued by DEP.

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site is adjacent to open storages on both sides while small houses are concentrated within the "Village Type Development" ("V") zone at the further east and west to the Site. The Site is adjacent to Kam Sheung Road at the north. The adjoining site is the subject of a previous approved planning application (No. A/YL-SK/78) dated 11.6.1999, while the Site is part of the subject of a previous rejected planning application of the same use (No. A/YL-SK/36) dated 27.6.1997 on which he had some reservations from the landscape planning perspective.
- (c) Based on the aerial photo taken on 16.4.1997, the Site is situated in an area of rural landscape character comprising of scattered tree groups, open storages, farmlands and small houses. Although the proposed use is not in line with the planning intention of "R(D)" zone, it is not incompatible to the surrounding environment.
- (d) Referring to site visit dated 10.4.2018, the Site is hard paved and vacant. Four existing trees of common fruit tree species are spotted within the Site. Adverse impact on significant landscape

resources arising from the proposed development is not anticipated.

- (e) Should the application be approved by the Board, approval conditions on the submission and implementation of tree preservation and landscape proposal should be included.
- (f) His detailed comment is at Appendix IV.

Nature Conservation and Agriculture

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

As the Site is located within "R(D)" zone and is paved, he has no comment on the application from the nature conservation and agricultural point of view.

Drainage

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

- (a) He has no in-principle objection to the application.
- (b) Should the application be approved, approval conditions requiring the submission, implementation and maintenance of a drainage proposal for the development should be included in the planning permission.

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) 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. Besides, the good practice guidelines for open storage (Appendix V) should be adhered to.

- (c) Having considered the nature of the open storage use, approval condition on provision of fire extinguisher(s) within 6 weeks from the date of planning approval is recommended for inclusion in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS 251) 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):

He has no particular comment on the subject issue from electricity supply safety aspect. However, 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.

District Officer's Comments

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

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

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

- (a) Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager (West), Civil Engineering and Development Department (PM (W), CEDD); and
- (d) Commissioner of Police (C of P).

11. Public Comment Received During Statutory Publication Period

On 16.3.2017, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 6.4.2018, one comment from a general public was received (Appendix VI) objecting to the application mainly on the grounds that the application is to legitimize ongoing brownfield operation; open storage is incompatible with "R(D)" zone; the proposed use will cause environmental degradation that will impact the quality of the soil and endanger the health of residents; storage should be accommodated in purpose built parks; and approval of application would encourage further substandard and inappropriate land uses.

12. Planning Considerations and Assessments

12.1 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 within these areas, 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.

12.2 The proposed development is for temporary open storage of machineries for a period of 3 years in "R(D)" zone. It 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, and for low-rise, low-density

residential developments subject to planning permission from the Board. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

12.3 The application does not comply with the TPB PG-No. 13E in that there is no previous approval granted at the Site. The Site forms an extension of the open storage of machinery to the immediate north, which is an existing use as at the gazetting of the Shek Kong IDPA Plan on 5.10.1990. However, according to TPB PG-No. 13E, "existing" and approved open storage use should be contained within the Category 3 areas and further proliferation of such use is not acceptable. Moreover, DEP does not support the application as there are residential structures/dwellings located in the vicinity (the nearest one is about 50m away to the northwest) (Plan A-2) and environmental nuisance is expected. Hence, the current application does not warrant sympathetic consideration.

12.4 The proposed development is not compatible with the surrounding land uses which are rural in character mainly with residential dwellings and unused land. There is no similar application within the same "R(D)" zone since the promulgation of the TPB PG-No. 13E on 17.10.2008. A previous application (No. A/YL-SK/36) submitted by the same applicant for the same temporary open storage use as the current application was rejected by the Board on review (paragraph 6 and Plan A-1b refer). Approval of the current application, even on a temporary basis, would set an undesirable precedent for similar applications within this part of the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

12.5 A public comment objecting the application was received as stated in paragraph 11 above. In this regard, the planning assessments and considerations above are relevant.

13. Planning Department's Views

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment 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 "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, and for low-rise, low-density residential developments subject to planning permission from the Board. 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 no previous approval has been granted at the Site and there is adverse departmental comment on the application;
- (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 similar applications within this part of the "R(D)" 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 year until 4.5.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 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 Sundays and statutory holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) 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;
- (e) the maintenance of existing boundary fencing on the Site at all times during the planning approval period;
- (f) the submission of tree preservation and landscape proposal within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.11.2018;
- (g) in relation to (f) above, the implementation of tree preservation and landscape 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;

- (h) 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;
 - (i) in relation to (h) above, the implementation of 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;
 - (j) in relation to (i) above, the implemented drainage proposal on the Site shall be maintained at all times during the planning approval period;
 - (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 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 4.11.2018;
 - (m) the provision of fire service installations 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;
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- (n) if any of the above planning conditions (a), (b), (c), (d), (e) or (j) 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), (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 application 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 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 dated 7.3.2018
- Appendix Ia Supplementary Information dated 15.3.2018
- Appendix Ib FI received on 11.4.2018 in response to departmental comments
- Appendix Ic FI received on 18.4.2018 in response to departmental comments
- Appendix Id FI received on 25.4.2018 in response to departmental comments
- Appendix Ie FI received on 26.4.2018 in response to departmental comments
- Appendix II Relevant extract of Town Planning Board Guideline for "Application for Open Storage and Port Back-up uses" No. 13E
- Appendix III Previous application covering the application site
- Appendix IV Detailed comment of CTP/UD&L, PlanD
- 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 Location Plan
- Drawing A-2 Vehicular Access Plan
- Plan A-1 Location Plan with Previous Application

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
MAY 2018

**Relevant Extract of Town Planning Board Guidelines for
Application for Open Storage and Port Back-up Uses
(TPB PG-No.13E)**

1. On 17.10.2008, the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13E) were promulgated by the Town Planning Board, which set out the following criteria for the various categories of area:
 - (a) Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns;
 - (b) Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas;
 - (c) 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 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 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 3 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; and
 - (d) Category 4 areas: applications 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 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. 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.

2. In assessing applications for open storage and port back-up uses, the other major relevant assessment criteria are also summarized as follows:
 - (a) there will be a general presumption against development on sites of less than 1,000 m² for open storage uses and 2,000 m² for port back-up uses in rural areas, other than sites located in major corridors, industrial/godown/workshop areas, quarrying activities or where it is demonstrated that optimum use is made of the site. This is to prevent the further proliferation of small sites in rural areas, minimizing sprawl over countryside areas and reducing travel trips;
 - (b) port back-up sites and those types of open storage uses generating adverse noise, air pollution and visual intrusion and frequent heavy vehicle traffic should not be located adjacent to sensitive receivers such as residential dwellings, hospitals, schools and other community facilities;
 - (c) port back-up uses are major generators of traffic, with container trailer/tractor parks generating the highest traffic per unit area. In general, port back-up sites should have good access to the strategic road network, or be accessed by means of purpose built roads;
 - (d) adequate screening of the sites through landscaping and/or fencing should be provided where sites are located adjacent to public roads or are visible from surrounding residential areas;
 - (e) there is a general presumption against conversion of agricultural land and fish ponds to other uses on an ad hoc basis, particularly in flood prone areas or sites which would obstruct natural drainage channels and overland flow; and
 - (f) for applications involving sites with previous planning approvals, should there be no evidence to demonstrate that the applicants have made any genuine effort to comply with the approval conditions of the previous planning applications, planning permission may be refused, or a shorter compliance period for the approval conditions may be imposed, notwithstanding other criteria set out in the Guidelines are complied with.

Previous s.16 Application covering the Application Site

Rejected Application

	<u>Application No.</u>	<u>Proposed Use(s)</u>	<u>Date of Consideration</u> <u>(RNTPC/TPB)</u>	<u>Rejection</u> <u>Reasons</u>
1	A/YL-SK/36	Temporary open storage of machinery for a period of 12 months	27.6.1997 [on review]	(a), (b), (c), (d)

Rejection Reasons

- (a) Not in line with the planning intention of the "R(D)" zone
- (b) No strong planning justification in the submission for a departure from the planning intention
- (c) The proposed development is not compatible with the surrounding rural area and the village settlement
- (d) Approval of the application would set an undesirable precedent for other similar applications and the cumulative effect of which would further degrade the environment of the area

Detailed comment of CTP/UD&L, PlanD

- (i) Noting three existing trees within the Site are heavily pruned, applicant is reminded that extensive tree pruning is a malpractice for tree maintenance which could weaken tree health and increase risk of fungal infection at the cuts. Applicant should closely monitor conditions of those trees and seek advice from recognized person when necessary.
- (ii) Given the limited space within the Site for tree planting and noting there is existing climber growth along the eastern boundary, landscape treatment, i.e. vertical greening of climber species should be provided for better greening effect within the Site.

Appendix V of RNTPC
Paper No. A/YL-SK/236

Good Practice Guidelines for Open Storage Sites

Good Practice Guidelines for Open Storage Sites

		Internal access for fire appliances	Lot boundaries (clear width)	Distance between storage cluster and temporary structure	Cluster size	Storage height
1.	Open Storage of Containers		2m	4.5m		
2.	Open Storage of non-combustibles or limited combustibles	4.5m	2m	4.5m		
3.	Open Storage of combustibles	4.5m	2m	4.5m	40m x 40m	3m

Remarks: Smoking and naked flame activities shall not be allowed within the open storage/recycling site.

Advisory clauses

- (a) note DLO/YL's comments that 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. Lot 297 S.A RP (Portion) in D.D. 112 is covered by a STW No. 2223 to permit structures erected thereon for the purpose of "storage of machinery". The Site is accessible to Kam Sheung Road via Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limited within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions to regularized any irregularities (if any) on Site. Such application(s) 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 the LandsD;
- (b) to adopt environmental mitigation measures as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP;
- (c) note CTP/UD&L, PlanD's comments that three existing trees within the Site are heavily pruned, the applicant is reminded that extensive tree pruning is a malpractice for tree maintenance which could weaken tree health and increase risk of fungal infection at the cuts. The applicant should closely monitor conditions of those trees and seek advice from recognized person when necessary. Given the limited space within the Site for tree planting and noting there is existing climber growth along the eastern boundary, landscape treatment, i.e. vertical greening of climber species should be provided for better greening effect within the Site;
- (d) note D of FS's comments that in consideration of the design/nature of the proposed structures, 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. Also, good practice guidelines for open storage at Appendix V of this RNTPC paper should be adhered to. Moreover, to address the

condition on provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. 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; and

- (e) note DEMS's comments that 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.

Agenda Item 35

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/YL-SK/236 Proposed Temporary Open Storage of Machineries for a Period of 3
Years in “Residential (Group D)” Zone, Lot 297 S.A RP (Part) in D.D.
112, Kam Sheung Road, Yuen Long
(RNTPC Paper No. A/YL-SK/236)

Presentation and Question Sessions

107. Ms Ivy C.W. Wong, STP/FSYLE, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) proposed temporary open storage of machineries for a period of three years;
- (c) departmental comments – departmental comments were set out in paragraph 10 and Appendix IV of the Paper. The Director of Environmental Protection (DEP) did not support the application as there were residential structures/dwellings located in the vicinity and environmental nuisance was expected. Other concerned departments had no objection to or no adverse comments on the application;
- (d) during the first three weeks of the statutory publication period, one public comment from an individual objecting to the application was received. Major objection grounds were set out in paragraph 11 of the Paper; and
- (e) the Planning Department (PlanD)’s views – PlanD did not support the application based on the assessments set out in paragraph 12 of the Paper. The proposed development was not in line with the planning intention of the “Residential (Group D)” (“R(D)”) zone. There was no strong planning justification in the submission for a departure from the planning

intention, even on a temporary basis. According to Town Planning Board Guidelines No. 13E (TPB PG-No. 13E) on 'Application for Open Storage and Port Back-up Uses', the site fell within Category 3 areas. The application did not comply with the TPB PG-No. 13E in that there was no previous approval granted at the site. Moreover, DEP did not support the application. The current application did not warrant sympathetic consideration. The proposed development was not compatible with the surrounding land uses which were rural in character mainly with residential dwellings and unused land. There was no similar application within the same "R(D)" zone since the promulgation of the TPB PG-No. 13E. The previous application submitted by the same applicant for the same temporary open storage use as the current application was rejected by the Board on review. Approval of the current application, even on a temporary basis, would set an undesirable precedent for similar applications within this part of the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area. Regarding the public comments, the comments of government departments and the planning assessments above were relevant.

108. Members had no question on the application.

Deliberation Session

109. A Member noted that TPB PG-No. 13E was intended to constrain the proliferation of open storage use and enquired whether there was any mechanism under the Town Planning Ordinance (TPO) to restore the brownfield sites. The Chairman said enforcement action under TPO would help reinstate the site conditions which had been damaged by unauthorized developments, if considered necessary. PlanD was conducting a survey on brownfield operations to identify the locations of the brownfield sites and to understand the current operations and its needs. In addition, the Civil Engineering and Development Department was carrying out feasibility studies to accommodate brownfield operations within multi-storey buildings. The findings of the studies would shed light on the future requirements of brownfield sites to facilitate better land utilization in areas such as

Hung Shui Kiu and Yuen Long South.

110. After deliberation, the Committee decided to reject the application. The reasons were:

- “(a) the development is not in line with the planning intention of the “Residential (Group D)” (“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, and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. 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 Town Planning Board Guidelines No. TPB PG-No. 13E in that no previous approval has been granted at the site and there is adverse departmental comment on the application;
- (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 similar applications within this part of the “R(D)” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.”

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

By Registered Post & Fax (2770 4583)

電 話 Tel: 2231 4317

來函編號 Your Reference:

覆函請註明本會編號

In reply please quote this ref.: TPB/A/YL-SK/236

18 May 2018

Chan Yuk Kim

(Attn: ICE HO)

Dear Sir/Madam,

**Proposed Temporary Open Storage of Machineries
for a Period of 3 Years in "Residential (Group D)" Zone,
Lot 297 S.A RP (Part) in D.D. 112, Kam Sheung Road, Yuen Long**

I refer to my letter to you dated 2.5.2018.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are:

- (a) the development is not in line with the planning intention of the "Residential (Group D)" ("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, and for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. 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 Guidelines No. TPB P.G-No. 13E in that no previous approval has been granted at the site and there is adverse departmental comment on the application;
- (c) you fail 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 similar applications within this part of the "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

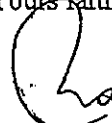
A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 4.5.2018, in both English and Chinese, are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 8.6.2018). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Ms. Ivy Wong of Fanling, Sheung Shui & Yuen Long East District Planning Office at 2158 6297.

Yours faithfully,



(Felix MA)

for Secretary, Town Planning Board

(With Chinese Translation)

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
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傳 真 Fax: 2877 0245 / 2522 8426

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來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/YL-SK/236

掛號及傳真函件(2770 4583)

Chan Yuk Kim
(經辦人: Ice Ho)

先生/女士:

擬在劃為「住宅(丁類)」地帶的元朗
錦上路第 112 約地段第 297 號 A 分段餘段(部分)
臨時露天存放機械(為期三年)

我曾於二零一八年五月二日發信給你。

城市規劃委員會(下稱「城規會」)經考慮你的申請後，
決定拒絕該申請，理由如下：

- (a) 有關發展不符合「住宅(丁類)」地帶的規劃意向，有關意向主要是透過把現有的臨時構築物重建作永久建築物，以改善鄉郊地區現有的臨時構築物，以及作低層、低密度的住宅發展，但這類發展須獲得城市規劃委員會的規劃許可。申請書內並無有力的規劃理據，以支持偏離此規劃意向，即使僅屬臨時性質亦然；
- (b) 這宗申請並不符合城市規劃委員會規劃指引編號 13B，因為申請地點先前並無獲批給規劃許可，而政府部門對這宗申請亦有負面意見；
- (c) 你未能證明有關發展不會對四周環境造成滋擾；以及

- (d) 批准這宗申請，即使僅屬臨時性質，亦會為該部分的「住宅(丁類)」地帶內的同類申請立下不良先例。倘該等申請獲批准，累積影響所及，會導致該區整體的鄉郊環境質素下降。

隨函附上就這宗申請擬備的城規會文件(補充規劃綱領／技術報告(如有的話)除外)及二零一八年五月四日城規會會議記錄的相關摘錄(中英文本)，以供參閱。

根據《城市規劃條例》第 17(1)條，申請人如因城規會的決定而感到不滿，可向城規會申請對有關決定進行覆核。如欲提出覆核申請，你須在本信發出日期起計 21 天內(即在二零一八年六月八日或之前)通知我，屆時我會與你聯絡，安排邀請你及／或你的授權代表出席城規會的聆訊。城規會須在收到覆核申請的日期起計三個月內考慮覆核申請。所有覆核申請均須予公布，為期三個星期，以供公眾提出意見。

根據《城市規劃條例》，城規會在覆核聆訊席上，只可就申請人進一步提供的書面及／或口頭申述，重新考慮原來的申請。倘若你在現階段決定對原來建議作出重大修改，便應根據《城市規劃條例》第 16 條就有關建議提交一份新的申請。

如果你對上述決定有不明白之處或需要更多資料，請與粉嶺、上水及元朗東規劃處黃楚娃女士聯絡(電話：2158 6297)。

城市規劃委員會秘書

(馬蔭德代行)

二零一八年五月十八日

Advisory Clauses

- (a) note DLO/YL's comments that 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. Lot 297 S.A RP (Portion) in D.D. 112 is covered by a STW No. 2223 to permit structures erected thereon for the purpose of "storage of machinery". The Site is accessible to Kam Sheung Road via Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site. The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limited within SKAHRA. The STW holder(s) will need to apply to his office for modification of the STW conditions to regularized any irregularities (if any) on Site. Such application(s) 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 the LandsD;
- (b) to adopt environmental mitigation measures as set out in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP;
- (c) note CTP/UD&L, PlanD's comments that three existing trees within the Site are heavily pruned, the applicant is reminded that extensive tree pruning is a malpractice for tree maintenance which could weaken tree health and increase risk of fungal infection at the cuts. The applicant should closely monitor conditions of those trees and seek advice from recognized person when necessary. Given the limited space within the Site for tree planting and noting there is existing climber growth along the eastern boundary, landscape treatment, i.e. vertical greening of climber species should be provided for better greening effect within the Site;
- (d) note D of FS's comments that in consideration of the design/nature of the proposed structures, 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. Also, good practice guidelines for open storage at Appendix V of **Annex 1** should be adhered to. Moreover, to address the condition on

provision of fire extinguisher(s), the applicant should submit a valid fire certificate (FS 251) to his department for approval. 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;

- (e) note CE/C, WSD's comments that for provision of water to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards; and
- (f) note DEMS's comments that 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.