

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1020

<u>Applicant</u>	: Mr. TANG Tsz Mo represented by Mr. WONG Sun Wo, William
<u>Site</u>	: Lots 1816 (Part), 1826 (Part) and 1827 (Part) in D.D. 107, Cheung Chun San Tsuen, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 5,747m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Comprehensive Development Area (1)” (“CDA(1)”) [restricted to a maximum plot ratio (PR) of 1.2 and a maximum building height (BH) of 16 storeys]
<u>Application</u>	: Temporary Open Storage of Construction Materials with Ancillary Office for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials with ancillary office for a period of three years at the application site (the Site), which falls within an area zoned “CDA(1)” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently occupied by the applied use without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site is accessible from Shui Mei Road via a local track (**Plans A-1 to A-3**). According to the applicant, the applied use involves a single-storey structure with a total floor area of about 220m² and BH of not more than 4.5m for ancillary office, and an open area for storage of construction materials (such as wooden board and steel frames) with stacking height of about 5m and provision of two parking spaces for private car and two loading/unloading spaces for medium goods vehicle (**Drawing A-1**). Peripheral fencing will be erected along the north-western boundary of the Site. No workshop activities will be conducted at the Site. The operation hours are between 8 a.m. and 6 p.m. from Mondays to Saturdays, with no

operation on Sundays and public holidays. The site layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application Form and with attachments received on 24.5.2024 **(Appendix I)**
- (b) Further information (FI) received on 4.9.2024* **(Appendix Ia)**
- (c) FI received on 18.11.2024* **(Appendix Ib)**
** accepted and exempted from publication and recounting requirements*

1.4 On 2.8.2024 and 25.10.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months each as requested by the applicant.

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 at **Appendices I to Ib**, and can be summarised as follows:

- (a) There are some large-scale planned developments in the subject “CDA(1)” zone and surrounding areas. The applied use would meet any such demand for construction materials.
- (b) Most of the residential structures to the northwest of the Site have been vacant for years pending implementation of the committed comprehensive residential development. Nevertheless, to minimise the potential nuisance on the nearby residents, peripheral fencing will be erected along the north-western boundary of the Site.
- (c) In support the current application, drainage and fire service installations proposals have been submitted by the applicant.

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

The applicant is not a ‘current land owner’ of the Site 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. 31B) by publishing a notice on the specified local newspapers and sending registered mail to the Kam Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

Part of the Site is subject to planning enforcement action (No. E/YL-KTN/673) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notices (ENs) were issued on 12.3.2024 and 6.9.2024 requiring discontinuation of the UD. As the requirement of the ENs was not complied with upon expiry of the notice, prosecution action is being considered.

5. **Town Planning Board Guidelines**

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. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G, and the relevant extracts of which are attached at **Appendix II**.

6. **Previous Application**

The Site is involved in one approved previous application (No. A/YL-KTN/604) covering nearly the entire “CDA(1)” zone for proposed comprehensive residential development with minor relaxation of PR and BH restrictions which is not relevant to the current application due to different use involved. Details of the previous application are summarised at **Appendix III** and the location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application for temporary open storage use within the same “CDA(1)” zone in the vicinity of the Site in the past five years.

8. **The Site and Its Surrounding Area** (Plans A-1 to A-4b)

8.1 The Site is:

- (a) accessible from San Tam Road via a local track; and
- (b) occupied by the applied use without valid planning permission.

8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, warehouse, parking of vehicles, car service, vacant land, grassland and residential structures (the nearest is about 5m to the west of the Site).

9. Planning Intention

The “CDA(1)” zone is intended primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. The zoning is to facilitate appropriate planning control over the development mix, scale, design and layout of development, taking account of various environmental, traffic, infrastructure and other constraints.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV and V** respectively.

10.2 The following government department does not support the application:

Environment

Comments of the Director of Environmental Protection (DEP):

- (a) according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as it involves use of heavy vehicles and there are sensitive uses (i.e. residential structures) in the vicinity of the Site (**Plan A-2**), thus environmental nuisance is expected;
- (b) there was one substantiated environmental complaint received against the Site in the past three years which was related to suspected nuisance by storing of scaffolding materials and no offence act was spotted during inspections; and
- (c) his advisory comments are at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 31.5.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the grounds that the Site forms part of a planned comprehensive residential development; the applied use would cause adverse environmental impact; and enforcement action against the applied use at the Site might be required (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of construction materials with ancillary office for a period of three years at the Site zoned “CDA(1)” (**Plan A-1**). The planning intention of the “CDA(1)” zone is primarily for comprehensive development/redevelopment of the area for residential use with the provision of

commercial, open space and other supporting facilities, if any. Whilst the applied use is not in line with the planning intention of the “CDA(1)” zone, the “CDA(1)” zone is largely covered by the approved application No. A/YL-KTN/604 for a proposed comprehensive residential development with implementation still subject to land acquisition. It is considered that approving the application on a temporary basis would not jeopardise the implementation of the approved comprehensive residential development at the “CDA(1)” zone.

- 12.2 The applied use is considered not incompatible with the surrounding areas which are rural in character with an intermix of open storage/storage yards, warehouse, parking of vehicles, vacant land and residential structures. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that significant adverse landscape impact arising from the applied use is not anticipated.
- 12.3 DEP does not support the application as the applied use involves use of heavy vehicles and environmental nuisance to the nearby sensitive receivers (i.e. residential structures) is expected. In this regard, the applicant will be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise possible environmental nuisances generated by the applied use. Besides, operation of the applied use is also subject to the relevant pollution control ordinances.
- 12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 2 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. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.
- 12.5 The application is considered generally in line with TPB PG-No. 13G in that relevant government departments consulted including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. DEP’s concerns can be addressed as mentioned in paragraph 12.3 above. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 13.2 below.
- 12.6 Regarding the public comment as stated in paragraph 11 above, the departmental comments and planning assessments 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 comment mentioned in paragraph 11 above, PlanD considers that the applied use could be tolerated for a period of three years.

- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 10.1.2028. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of a revised 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 10.7.2025;
- (b) in relation to (a) 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 10.10.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) with a valid fire certificate 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 21.2.2025;
- (e) the implementation of the accepted 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 10.10.2025;
- (f) if the above planning condition (c) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (g) if any of the above planning condition (a), (b), (d) or (e) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

Advisory clauses

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

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

the applied use is not in line with the planning intention of the "CDA(1)" zone which is primarily for comprehensive development/redevelopment of the area for residential use with the provision of commercial, open space and other supporting facilities, if any. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form with attachments received on 24.5.2024
Appendix Ia	FI received on 4.9.2024
Appendix Ib	FI received on 18.11.2024
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Previous application
Appendix IV	Government department's general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comment
Appendix VII	Fire Services Department's good practice guidelines for open storage sites
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
JANUARY 2025**