

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/792

<u>Applicant</u>	: Ms CHIU Hei-fung represented by Winli Consulting Engineers
<u>Site</u>	: Lots 629 S.Q, 630 S.B ss.15 and 653 S.B RP (Part) in D.D. 110, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 835m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.4 and building height of 3 storeys (9m)]
<u>Application</u>	: Temporary Open Storage of Private Vehicles and Vehicle Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of private vehicles and vehicle parts for a period of 3 years. The Site falls within an area zoned “R(D)” on the Kam Tin North OZP (**Plan A-1**). The applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is paved, fenced off, built with some structures and currently used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, 2 one-storey structures with total floor area of about 264 m² and building height of 9m are provided within the Site for storage/parking, storage of vehicle parts and ancillary office uses. Seven storage / parking spaces for private car are provided on the Site. The operation hours are between 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays and there is no operation on public holidays. The Site is directly accessible from

Kam Tin Road. The site layout plan and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 The Site is involved in eleven previous applications (No. A/YL-KTN/42, 57, 83, 109, 157, 240, 266, 336, 395, 491 and 635) for the same use as the current application (detailed at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information (**Appendix I**) received on 29.9.2021
 - (b) Further information (FI) received on 21.1.2022 (**Appendix Ia**)
 - (c) FI received on 17.5.2022 (**Appendix Ib**)
 - (d) FI received on 11.7.2022 (**Appendix Ic**)
- 1.5 At the requests of the applicant, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application twice each for a period of two months to allow time for the applicant to prepare FI to address the departmental comments. After the latest deferral request in March 2022, the applicant submitted FI on 17.5.2022. The application is 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 the application form, supplementary information and the FIs at **Appendices I to Ic**. They can be summarized as follows:

- (a) The applied use, site layout/boundary and major development parameters of the current application is the same as the previous approved application No. A/YL-KTN/635.
- (b) The applicant has made endeavour to comply with the approval conditions of the previous application. Nevertheless, the applicant failed to comply with the approval conditions due to pre-occupation with business. The applicant undertakes to comply with the approval conditions should the current application be approved by the Committee.

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

The applicant is one of the “current land owners”. In respect of the other “current land owner”, the applicant has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notices and notifying the Pat Heung Rural Committee by

registered mail. 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 under Section 16 of the Town Planning Ordinance' (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 3 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is not subject to any active planning enforcement action.

6. **Previous Applications**

6.1 The Site is the subject of eleven previous applications (No. A/YL-KTN/42, 57, 83, 109, 157, 240, 266, 336, 395, 491 and 635) for the same use as the current application. All the applications, except Application No. A/YL-KTN/42, were approved with conditions by the Committee between 1998 and 2018 mainly for the reasons that the developments would not frustrate the long-term planned developments in the area; there were previous approvals granted on the Site; the developments were not incompatible with the adjacent open storage/workshop use; there was no local objection or adverse departmental comments received or the technical concern of relevant department could be addressed by appropriate approval conditions; and the developments were in line with the then TPB PG-No. 13E on application for open storage and port back-up uses and/or TPB PG-No. 34B on renewal of planning permission granted by the Board. Nevertheless, the planning permissions of Applications No. A/YL-KTN/240 and 635 were revoked in 2006 and 2021 respectively due to non-compliance with approval conditions related to the fire safety or drainage aspects.

6.2 Compared with the last approved application No. A/YL-KTN/635 submitted by the same applicant, the applied use, site area / boundary and major development parameters of the current application remain unchanged.

6.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. **Similar Applications**

7.1 There are 7 similar applications (No. A/YL-KTN/580, 601, 631, 677, 742, 762 and 810), involving 4 sites, for various temporary open storage uses within the same "R(D)" zone (including Applications No. A/YL-KTN/631 and 810 which straddle "R(D)" and "O" zones on the OZP) in the vicinity of the Site in the past

5 years. All the applications were approved with conditions by the Committee between January 2018 and January 2022 on similar considerations as stated in paragraph 6.1 above.

- 7.2 Details of the applications are summarized at **Appendix III** and their locations 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) paved, fenced off, built with some structures and currently used for the applied use without planning permission; and
- (b) directly accessible from Kam Tin Road.

8.2 The surrounding areas have the following characteristics:

- (a) to its west and northwest are open storage / storage yards, residential structures/dwellings (the nearest is less than 10m away in the west), a car service workshop, a vehicle repair workshop and vacant land;
- (b) to the north are residential structures/dwellings. To the further north is a nullah;
- (c) to the east are open storage yards (one of which is approved under a valid Application No. A/YL-KTN/762), residential dwellings/structures and a car service workshop; and
- (d) to the south across Kam Tin Road is the Shek Kong Barracks.

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

All 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 in **Appendices V and VI** respectively.

11. Public Comments Received During Statutory Publication Period (Appendix VII)

During the three-week statutory publication period, 2 public comments from individuals were received. The commenters object to the application mainly for the reasons that the applied use will lead to traffic congestion, environmental pollution, and fire hazard risk, and thus affecting the safety and living standard of the nearby villagers; and the planning approval of the previous application was revoked.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of private vehicles and vehicle parts for a period of 3 years in the “R(D)” zone. The applied use 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. Nevertheless, there is currently no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis for a period 3 years would not frustrate the long-term planning intention of the “R(D)” zone.

12.2 The development is considered not incompatible with the surrounding rural land uses which are intermixed with open storage/storage yards, car repair workshops, car service workshop, residential dwellings/structures and the Shek Kong Barracks.

12.3 The Site falls within Category 3 areas under the TPB PG-No. 13F (**Appendix II**). 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 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. 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 on a temporary basis up to a maximum period of 3 years.

12.4 The application is considered generally in line with the TPB PG-No. 13F in that previous approvals for the same use have been granted since 1998. There is no adverse comment from the relevant departments consulted and no local objection received as advised by DO(YL). Compared with the last

approved application No. A/YL-KTN/635, the current application submitted by the same applicant is the same in terms of the applied use, site area / boundary, and major development parameters. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.

- 12.5 Relevant government departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on-site will be subject to enforcement action by the Planning Authority. In addition, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.
- 12.6 The Site is the subject of ten previous applications approved for the same applied used as the current application between 1998 and 2018. Nevertheless, the planning permission of the last approved Application No. A/YL-KTN/635 submitted by the same applicant was revoked in 2021 due to non-compliance with approval condition related to the implementation of drainage proposal. For the current application, the applicant has submitted a drainage proposal in support of the application with no adverse comment from CE/MN of DSD was received. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.7 There are seven similar applications approved for temporary open storage uses within the same “R(D)” zone in the vicinity of the Site in the past five years. Approval of the current application is in line with the Committee’s previous decisions.
- 12.8 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the departmental comments and planning assessments and considerations above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of private vehicles and vehicle parts could be tolerated for a period of 3 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 3 years

until 15.7.2025. 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) no operation on public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no vehicle other than private car is allowed to be parked/stored on or enter/exit the Site 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 existing fencing erected should be maintained at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the implementation of the accepted 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 15.1.2023;
- (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 a valid fire certificate (FS251) 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 26.8.2022;
- (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 15.1.2023;
- (k) in relation to (j) above, the provision of the 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 15.4.2023;
- (l) if any of the above planning condition (a), (b), (c), (d), (e), (f) 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; and

- (m) if any of the above planning conditions (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.

Advisory clauses

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

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

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. It is also intended 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.

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 supplementary information received on 29.9.2021
Appendix Ia	FI received on 21.1.2022
Appendix Ib	FI received on 17.5.2022
Appendix Ic	FI received on 11.7.2022

Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous and similar applications
Appendix IV	Good practice guidelines for open storage sites
Appendix V	Government departments' general comments
Appendix VI	Advisory clauses
Appendix VII	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Drainage proposal
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**