

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-KTN/810

<u>Applicant</u>	: Firm Yield Development Limited
<u>Site</u>	: Lot 529 S.B (Part) in D.D. 109, Lot 644 S.A RP (Part) in D.D. 110, and adjoining Government Land, Kam Tin Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 460m ² (including Government land of about 38m ² (8%))
<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>Zonings</u>	: “Open Space” (“O”) (About 371m ² (81%)); “Residential (Group D)” (“R(D)”) (About 89m ² (19%)) [maximum PR of 0.4 and building height of 3 storeys (9m)]
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage of Private Cars for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary open storage of private cars for a period of 3 Years. The Site falls within an area zoned “O” and “R(D)” on the Kam Tin North OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” and “O” zones. According to the covering Notes of the OZP, temporary use 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 currently used for the applied use with valid planning permission under Application No. A/YL-KTN/631 (Plan A-2 and A-4).

- 1.2 The Site is involved in eight previous applications submitted by the same applicant as the current application, details of which are set out in paragraph 6 below and **Appendix IV**. All applications, except No. A/YL-KTN/148, were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1997 and 2019 for public car park or temporary open storage of private cars. The approval conditions of the last approved application (No. A/YL-KTN/631) for the same applied use have been complied with and the planning permission is valid until 8.3.2022.
- 1.3 According to the applicant, the Site involves three 1 to 2-storey structures (with building height ranging from 3m to 6m) with a total floor area of about 238m² for storage, site office and rain shelter. There are 16 storage spaces for private cars (with no fixed location) and 5 private car parking spaces (with no fixed location) for its staff and visitors at the Site. The operation hours are between 9:00 a.m. and 8:00 p.m. from Mondays to Saturdays, excluding Sundays and public holidays. The Site is directly accessible from Kam Tin Road. The site layout plan submitted by the applicant is shown on **Drawing A-1**.
- 1.4 Compared with the last approved application No. A/YL-KTN/631, the current application submitted by the same applicant is the same in terms of applied use, site area, layout, number of structures and total floor area.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 8.12.2021. (**Appendix I**)
 - (b) Further information (FI) received on 21.1.2022 in response to departmental comments (*exempted from publication requirement*) (**Appendix Ia**)

2. **Justifications from the Applicant**

The justifications put forth by the applicant are detailed at **Appendices I and Ia**. They can be summarized as follows:

- (a) The applicant's company has been established for over 20 years. Various previous applications for the same use at the Site have been approved, including the latest application No. A/YL-KTN/631.
- (b) In view of the market depression in Hong Kong's economy, the company intends to continue its operation at the Site so that the employees would not become unemployed.

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 Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34D) are relevant to this application. The relevant extract of the assessment criteria are attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (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 III**.

5. Background

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

6. Previous Applications

- 6.1 The Site is involved in eight previous applications (No. A/YL-KTN/33, 77, 128, 148, 160, 241, 455 and 631) (**Plan A-1b**) for public car park or temporary open storage of private cars between June 1997 and March 2019. All the previous applications were submitted by the same applicant as the current application. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 Except Applications No. A/YL-KTN/33 and 148, all the applications (No. A/YL-KTN/77, 128, 160, 241, 455 and 631) for the same temporary open storage of private cars were approved with conditions by the Committee between November 1998 and March 2019 mainly for the similar reasons that temporary approvals would not jeopardize the long-term planning intention of the relevant zones; the developments were not incompatible with the surrounding land uses abutting Kam Tin Road; the developments were generally in line with the then Town Planning Board Guidelines for application for open storage and port backup uses; concerned government departments generally had no adverse comments; and/or approval conditions of previous applications had been complied with. However, the planning

permissions for applications No. A/YL-KTN/128 and 455 were revoked due to non-compliance with conditions.

- 6.3 Compared with the last approved application No. A/YL-KTN/631, the current application submitted by the same applicant is the same in terms of applied use, site area, layout, number of structures and total floor area. All the approval conditions under Application No. A/YL-KTN/631 have been complied with and the planning permission is valid until 8.3.2022.

7. Similar Applications

There are four similar applications in the past five years for various temporary open storage uses within the same “R(D)” or “O” zone in the vicinity of the Site. All the applications were approved with conditions by the Committee for similar reasons that approval of the applications on a temporary basis would not frustrate the long-term planning intentions of the relevant zones; the developments were not incompatible with the surrounding land uses; the applications were generally in line with the then Town Planning Board Guidelines on application for open storage and port back-up uses; there were no adverse departmental comment or local objection or the departmental concerns could be addressed by approval conditions. Details of these applications are summarized in **Appendix V** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) paved and currently used for the applied use with planning permission; and
- (b) accessible via a track from Kam Tin Road to the south.

8.2 The surrounding areas are predominantly rural in character intermixed with residential dwellings/structures, open storage/ storage yards, parking of vehicles, car beauty workshop, petrol filling stations, Shek Kong Barracks and vacant land:

- (a) to its west are open storage yards, a car beauty workshop, residential structures/dwelling and a site with construction works in progress;
- (b) to its immediate north is vacant land and residential dwelling/structure (the nearest about 20m to the north). To its further north and northwest is a residential estate namely Season Monarch (四季名園);
- (c) to its east and northeast across a local access road are a petrol filling station, an open storage yard, parking of vehicles, residential structures/dwellings and some graves; and

- (d) to its south across Kam Tin Road are petrol filling stations, the Shek Kong Barracks, a clinic and cultivated agricultural land.

9. Planning Intentions

- 9.1 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.
- 9.2 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 Government Land (GL) and Old Schedule Agricultural Lots 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 529 S.B in D.D. 109 is covered by Short Term Waiver (STW) No. 4125 to permit structures erected thereon for the purpose of “temporary open storage of private cars”.
 - (c) The GL within the Site is covered by Short Term Tenancy (STT) No. 2847 to permit structures erected thereon for the purpose of “temporary open storage of private cars”.
 - (d) Should the application be given to the planning application, the STW/STT holder(s) will need to apply to his offices for modification of the STW/STT conditions where appropriate, and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD 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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) 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.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly. Besides, the applicant should be advised that all vehicles for the Site must be stored within the Site during the planning approval period.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Open Space Aspect

10.1.4 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) She has no in-principle objection to the application noting that the applied approval period is only three years.
- (b) The portion zoned “O” within the Site is not on the priority list for development agreed by the Yuen Long District Council. Her office has no plan to develop the Site into public open space at present.

Environment

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

- (a) There was one non-substantiated environmental complaint related to waste received in the past three years.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department.

Landscape

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

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo of January 2021, the Site is located in an area of rural landscape character comprising of vacant lands, residential houses, temporary structures, open storage, car parks and scattered tree group. Comparing the aerial photos of 2018 and 2021, there is no significant change to the landscape character of the surrounding area. According to the site inspection photos taken in December 2021, the Site is hard paved and storage of private cars is in operation. No existing tree is observed within the Site.
- (c) According to the layout plan submitted, there is no significant change in the development layout, hence, significant adverse landscape impact within the site arising from the continuous use is not anticipated.

Nature Conservation

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

Noting that the Site has been paved and has been used for similar purposes approved by the Board in the past, he has no comment on the application from nature conservation point of view.

Drainage

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

- (a) He has no objection in-principle to the development.
- (b) Presumably, the applicant would implement the same drainage facilities as those implemented under the previous application No. A/YL-KTN/631.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-KTN/631 and submission of the records of the existing drainage facilities on site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

10.1.9 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 FSIs to be installed should be clearly marked on the layout plans.
- (c) 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 or referral from relevant licensing authority.

Building Matters

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

- (a) There is no record of approval granted by the Building Authority (BA) for the existing structures at the Site and he is not in a position to offer comments on their suitability for the use related to the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the

co-ordinator for the proposed building works in accordance with the BO.

- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix VII**.

District Officer's Comments

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

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

10.2 The following government departments have no comment on / no objection to the application:

- (a) Project Manager(West), Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 17.12.2021, the application was published for public inspection. During the three-week statutory publication period, four public comments were received from individuals (**Appendices VI-1 to VI-4**), objecting to the application mainly on the grounds of generating heavy traffic flow and traffic congestion, creating environmental pollution and nuisance, and increasing the fire risk and affecting the safety and living quality of the villagers.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary open storage of private cars for a period of 3 years within an area mainly zoned "O" (about 81%) with a small portion in the "R(D)" zone (about 19%). The development is considered not in line with the planning intentions of the "O" and "R(D)" zones. The "O" zone is primarily intended for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Nevertheless, DLCS has no objection to the application as the Site is not on their priority list for development and there is no plan to develop it into public open space at present. As regards the "R(D)" zone, it is primarily intended 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. Yet, there is

currently no known development programme at the Site. It is considered that approval of the application on a temporary basis for a further period of 3 years would not frustrate the long-term planning intentions of the “O” and “R(D)” zones.

12.2 The development is considered not incompatible with the surrounding areas which are intermixed with residential dwellings/structures, open storage/storage yards, parking of vehicles, car beauty workshop, petrol filling stations and vacant land.

12.3 According to TPB PG-No. 13F, 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 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 generally in line with the TPB PG-No. 13F and 34D in that previous approval (Application No. A/YL-KTN/631) for the same applied use was granted in 2019 and all the approval conditions have been complied with. There is no adverse comment from the relevant departments consulted and no local objection received as advised by DO(YL). Also, there is no major change in planning circumstances since the last approval. Compared with the last approved application, the current application is the same in terms of use, site area / boundary, layout and total floor area. The 3-year approval period sought is of the same time frame as the previous application. As such, 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 nuisance and to address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Besides, the applicant will be advised to adopt the relevant mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 12.6 The Committee has approved six previous applications, including renewal of the planning approval granted, for the same use at the Site and 4 similar applications for various temporary open storage uses within the same “O” and “R(D)” zones in the vicinity of the Site as mentioned in paragraphs 6 and 7 above. Approval of the current application is in line with the Committee’s previous decisions.
- 12.7 Four public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, relevant government departments’ comments as well as planning assessments and considerations as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of private cars could be tolerated for a further 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, and be renewed from 9.3.2022 until 8.3.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

Approval Conditions

- (a) no operation between 8:00 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 Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) 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;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked / stored on or enter / exit the Site at any time during the planning approval period;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the existing boundary fencing shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities implemented on the Site shall be maintained at all times during the planning approval period;

- (h) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 9.6.2022;
- (i) 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 9.9.2022;
- (j) in relation to (i) 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 9.12.2022;
- (k) the provision of fire extinguisher(s) within 6 weeks from the date of commencement of the renewed planning approval to the satisfaction of D of FS or of the Town Planning Board by 20.4.2022;
- (l) if any of the above planning condition (a), (b), (c), (d), (e), (f) 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; and
- (m) if any of the above planning condition (h), (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.

[The above approval conditions are similar to those under the last approved Application No. A/YL-KTN/631, except those on drainage and fire safety aspects based on CE/MN of DSD's and D of FS' comments.]

Advisory Clauses

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

13.3 There is no strong reason to reject the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning 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 Plans received on 8.12.2021
Appendix Ia	FI received on 21.1.2022
Appendix II	Extract of TPB PG-No. 34D
Appendix III	Extract of TPB PG-No. 13F
Appendix IV	Previous s.16 Applications covering the Site
Appendix V	Similar Applications within the same “R(D)” and “O” zones on the approved Kam Tin North OZP
Appendix VI	Public Comments received during the Statutory Publication Period
Appendix VII	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

PLANNING DEPARTMENT
January 2022