

RNTPC Paper No. A/YL-NTM/449A  
For Consideration by the  
Rural and New Town  
Planning Committee  
on 17.2.2023

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-NTM/449**

<b><u>Applicant</u></b>	: 柳婷女士
<b><u>Site</u></b>	: Lots 503 (Part), 504 (Part), 505 and 506 (Part) in D.D. 98 and Adjoining Government Land (GL), Ngau Tam Mei, Yuen Long
<b><u>Site Area</u></b>	: About 1,060m <sup>2</sup> (including about 185m <sup>2</sup> of GL (about 17% of the Site))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Ngau Tam Mei Outline Zoning Plan No. S/YL-NTM/12
<b><u>Zoning</u></b>	: “Green Belt” (“GB”)
<b><u>Application</u></b>	: Temporary Open Storage of Vehicles and Warehouse (Storage of Vehicle Parts) with Vehicles Repair Workshop for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of vehicles and warehouse (storage of vehicle parts) with vehicles repair workshop for a period of 3 years and associated filling of land (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). Filling of land within “GB” zone also requires planning permission from the Board. The Site is currently used for open storage of vehicles and vehicles repair workshop without planning permission.
- 1.2 According to the layout plan (**Drawing A-1**), the ingress/egress is located at the western boundary of the Site, which is accessible to Kwu Tung Road via a local access. According to the applicant, only private cars will be stored and repaired at the Site. Besides open storage of private cars at uncovered area, there are seven

single-storey structures (about 2.6-5.3m in height) for storage of vehicles (in open shed) and vehicle parts and vehicles repair workshop, with a total gross floor area of about 546.5m<sup>2</sup>. No parking spaces will be provided within the Site. The whole site has been hard-paved with materials for 0.1m in depth without valid planning permission. The operation hours of the proposed use are from 9:00 a.m. to 7:00 p.m. from Mondays to Sundays, including public holidays.

- 1.3 In support of the application, the applicant has submitted an application form with attachments received on 22.9.2022 and supplementary information (SI) received on 29.9.2022 (**Appendix I**).
- 1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) of the Board agreed on 11.11.2022 to defer making a decision on the application for a period of two months in order to allow sufficient time for preparation of FI to address departmental comments. The applicant has not submitted any FI to address department comments.

## **2. Justification from the Applicant**

The applicant has not provided any justification in support of the application.

## **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 San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

## **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) and ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) are relevant to the application. The Site falls within Category 4 areas under the TPB PG-No. 13F. Relevant extracts of the Guidelines are at **Appendix II**.

## 5. **Background**

The Site is currently not subject to planning enforcement action. Should there be sufficient evidence to form an opinion of unauthorised development under the Town Planning Ordinance at the Site, enforcement action would be instigated as appropriate.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Applications**

- 7.1 There are four similar applications (Nos. A/YL-NTM/394, A/YL-NTM/395, A/YL-NTM/433 and A/YL-NTM/447) involving three sites for temporary open storage/open storage of construction materials and machinery parts for a period of 3 years and one site for the filling of land within the “GB” zone on the same OZP in the past five years. All of them were rejected by the Committee from 2020 to 2022 mainly on the considerations that the applied uses being not in line with the planning intention of “GB” zone, not in line with the TPB PG- No. 10 and 13E/13F, and/or the approval of applications would set an undesirable precedent for similar applications within the “GB” zone.
- 7.2 Details of the application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
  - (a) accessible to Kwu Tung Road via a local access; and
  - (b) hard-paved and currently used for open storage of vehicles and vehicles repair workshop.
- 8.2 The surrounding areas are rural in character intermixed with open storage, vacant land, residential structures, ponds and fallow agricultural land:
  - (a) to its immediate north across a watercourse is a pond and to its further north and northeast are open storage yard and a vacant farm;
  - (b) to its immediate east are a residential structure and storage and to its further east are vacant land, residential structures and storages and ponds;

- (c) to its south and southwest are residential structures and open storage of vehicles, vacant land, a chicken farm and ponds;
- (d) to its immediate west are fallow agricultural land and to its further west are residential structures and storage; and
- (e) except for a residential structure to the east and a chicken farm to the south, other residential structures/storages and open storage yards in the vicinity of the Site are mostly suspected unauthorised developments.

## **9. Planning Intention**

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other 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 IV and V** respectively.
- 10.2 The following Government departments have been consulted and their views on the application are summarised as follows:

### **Traffic**

#### **10.2.1 Comments of the Commissioner for Transport (C for T):**

- (a) The Site is connected to public road network via a section of a local access which is not managed by Transport Department (TD). The land status of the local access should be clarified with Lands Department by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly;

- (b) The applicant should seek the relevant land owner(s) on the right of using the vehicular access;
- (c) The application should indicate clear width of the ingress and egress point and demonstrate sufficient space for manoeuvring of the types of vehicle within the Site;
- (d) The application should clarify any provision of car parking and loading/unloading spaces are required for operation and demonstrate the traffic generated from the Site would not have traffic impact on the public road network; and
- (e) His advisory comments are at **Appendix V**

### **Nature Conservation**

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

He noted that there is a watercourse located to the north of the subject site. The applicant should clarify if any measures would be adopted to avoid polluting the nearby watercourse during land filling activities.

### **Landscaping**

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

- (a) With reference to the aerial photos of 2021, the Site is situated in an area of rural fringe landscape character comprising of temporary structures, small houses, vacant lands and tree group. The Site is in close vicinity of Ki Lun Shan which falls within areas zoned “Conservation Area” (“CA”). Comparing the aerial photos of 2015 to 2021, vegetation clearance within the Site had been taken place since 2016 and the Site was hard paved in 2017;
- (b) With reference to the site photos in September 2022 and site visit record in October 2022, the Site is partly hard-paved with temporary structures and numbers of vehicles. Two nos. of trees of undesirable species (*Leucaena leucocephala*) are identified along the northern boundary within the Site. Significant impact on the existing landscape resources within the Site arising from the proposed use is not anticipated. However, there is concern that approval of the application would alter the landscape character of green belt and further degrade the landscape quality of

surrounding environment. As such, she has some reservations on the application from landscape planning perspective; and

- (c) Her advisory comments are at **Appendix V**.

## **11. Public Comments Received During Statutory Publication Period**

On 30.9.2022, the application was published for public comments. During the statutory publication period, four public comments were received from World Wide Fund For Nature Hong Kong, Kadoorie Farm and Botanic Garden Corporation and two individuals objecting to or raising concerns on the application on grounds that the proposed use and filling of land will create traffic issue, environmental pollution and increase fire risk thereby affecting the safety and living quality of the local residents; there is suspected unauthorized development within the Site; there is no information on existing trees; the proposed use is not in line with the planning intention of “GB” zone; and there is no previous approval at the Site and the approval of the application will set undesirable precedent for similar cases in this “GB” zone (**Appendix VI**).

## **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary open storage of vehicles and warehouse (storage of vehicle parts) with vehicles repair workshop for a period of 3 years and associated filling of land which falls within an area zoned “GB”. The planning intention of “GB” zone is for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. The applicant has not provided planning justifications that merit a departure from the aforementioned planning intention, even on a temporary basis. It is considered that the proposed use and filling of land is not in line with the planning intention of the “GB” zone.
- 12.2 Although there are a few open storage yards identified around the Site, they are operated without valid planning permission. The proposed temporary use and filling of land is considered incompatible with the surrounding major land uses which are rural in character and intermixed with ponds, fallow agricultural land and residential dwellings (**Plan A-2**).
- 12.3 According to the TPB PG-No. 10, development in the “GB” zone should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape; should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply; and should not be itself the source of pollution. While Chief Engineer/Mainland North, Drainage

Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no adverse comment from drainage and environmental perspectives, CTP/UD&L of PlanD has reservation on the application from landscape planning perspective as there is concern that the approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment. The applicant fails to demonstrate that the proposed use will not have adverse traffic impact and have not proposed any measure to avoid pollution to nearby watercourse in response to the comments of the C for T and DAFC. It is considered that the proposed use and filling of land at the Site are not in line with the TPB PG-No. 10.

- 12.4 The Site falls within Category 4 areas under the TPB PG-No. 13F in which applications for open storage and port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. The application is not in line with TPB PG-No. 13F in that no previous approval for the proposed use has been granted for the Site and the applicant fails to demonstrate that the proposed use will not have adverse traffic, landscaping and environmental impacts on the surrounding areas.
- 12.5 There had been four similar application for similar use in “GB” zone on the OZP for the past five years which were rejected by the Committee on considerations that the proposed use and land filling are not in line with the planning intention of “GB” zone; not in line with the TPB PG- No. 10 and 13E/13F; and approval of application would set an undesirable precedent resulting in general degradation of the environment of the area. Rejection of the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the four public comments received raising objection/concerns on the application as detailed in paragraph 11 above, the planning considerations and assessments and departmental comments above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessments made in paragraph 12 and have taking into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
  - (a) the proposed use and filling of land are not in line with the planning intention of the “GB” zone which is intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;

- (b) the proposed use and filling of land are not in line with the Town Planning Board Guidelines for 'Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance' (TPB PG-No. 10) in that the proposed use and filling of land are incompatible with the surrounding area and will affect the landscape character; and may cause adverse traffic impact and pollution to nearby watercourse; and
- (c) the proposed use and filling of land are not in line with 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) in that there is no previous planning approval for the proposed use at the Site and the applicant fails to demonstrate that the proposed uses would not have adverse traffic and landscaping impacts on the surrounding areas and pollution to nearby watercourse.

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 years until 17.2.2026. 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) the submission of a 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 17.8.2023;
- (c) in relation to (b) 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 17.11.2023;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the provision of fire extinguisher(s) 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 31.3.2023;
- (f) 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 17.8.2023;

- (g) in relation to (f) 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 17.11.2023;
- (h) if any of the above planning condition (a) or (d) 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;
- (i) if any of the above planning condition (b), (c), (e), (f) or (g) 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
- (j) upon expiry of the planning permission, the reinstatement of the site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

#### Advisory Clauses

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

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

### **15. Attachments**

<b>Appendix I</b>	Application form with attachments received on 22.9.2022 and SI received on 29.9.2022
<b>Appendix II</b>	Extracts of TPB PG-No. 10 and No. 13F
<b>Appendix III</b>	Similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses

<b>Appendix VI</b>	Public Comments
<b>Drawing A-1</b>	Layout plan
<b>Plan A-1</b>	Location plan with similar applications
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plans A-4a and A-4b</b>	Site photos

**PLANNING DEPARTMENT  
FEBRUARY 2023**