

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1006

<u>Applicant</u>	: Fulland Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 1050 (Part), 1054 RP (Part), 1055 (Part), 1057 (Part), 1059 (Part), 1161 (Part) and 1169 (Part) in D.D. 111, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	: about 8,699m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zonings</u>	: “Village Type Development” (“V”) (about 53%) [maximum building height of 3 storeys (8.23m)] “Open Storage” (“OS”) (about 47%)
<u>Application</u>	: Temporary Open Storage (Vehicles and Vehicle Parts) and Vehicle Stripping Yard with Ancillary Facilities for a Period of Three 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 (vehicles and vehicle parts) and vehicle stripping yard with ancillary facilities for a period of three years and filling of land. The Site falls within areas zoned “V” (about 53%) and “OS” (about 47%) on the approved Pat Heung OZP No. S/YL-PH/11 (**Plan A-1a**). According to the Notes of the OZP, ‘Open Storage (not elsewhere specified)’ is a Column 1 use which is always permitted and ‘Vehicle Stripping/Breaking Yard’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board) in the “OS” zone. For the “V” zone, the applied uses are neither Column 1 nor Column 2 uses in the “V” zone and temporary use of any land not exceeding a period of three years requires planning permission from the Board according to the covering Notes of the OZP. Filling of land within the “V” zone also requires planning permission from the Board. The Site is currently paved, occupied by some temporary structures and used for the applied uses without valid planning permission (**Plans A-2 to A-4b**).

- 1.2 According to the applicant, a major portion of the Site (about 6,398m² or 73.5%) will be used for open storage of vehicles and vehicle parts; and six structures of 1 to 2 storeys (about 3m to 8m in height) with a total floor area of about 570m² will be erected for site office, storage of vehicle parts, vehicle stripping, covered loading/unloading (L/UL) spaces and washroom (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the portion within the “V” zone by 0.2m in depth (to a range of 20.5mPD to 21.9mPD) with concrete for site formation and vehicular circulation (**Drawing A-2**). Two parking spaces for private cars and two L/UL spaces (one for light goods vehicle and one for medium goods vehicle) will be provided within the Site. The proposed operation hours are from 9 a.m. to 6 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible from Fan Kam Road via a local track. The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.
- 1.3 In support of the application, the applicant has submitted the following documents:

Application form with supplementary information received on **(Appendix I)**
11.4.2024

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form and the supplementary information at **Appendix I**. They can be summarised as follows:

- (a) The applicant is a vehicle dismantling company providing vehicle stripping services for the nearby locals and the applied uses are intended to support vehicle repairing industry in the New Territories.
- (b) There are open storage, warehouse and workshop uses surrounding the Site. The building height and scale of the applied uses are not incompatible with the surrounding areas. Part of the Site (about 47%) falls within Category 1 areas (**Plan A-1b**) under the Town Planning Board Guidelines No. 13G on ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13G) which is considered suitable for open storage uses.
- (c) No heavy goods vehicles, including container tractors/trailers, will be parked/stored on or enter/exit the Site. Towing of vehicles is not required and no machinery will be used during the process of vehicle stripping at the Site as only hand-tools will be used. With the implementation of drainage and fire service installations proposals after obtaining the planning permission, the applied uses will not cause significant nuisances to the surrounding areas.
- (d) The paved area is considered necessary to meet the operational needs and no further filling of land will be carried out.

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 posting site notices and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The portion of the Site within “V” zone is largely subject to planning enforcement action against unauthorised development (UD) involving storage use and use for place for parking of vehicles (**Plan A-2**). Enforcement Notice (No. E/YL-PH/918) was issued on 17.1.2024 requiring discontinuation of the UD by 17.3.2024. Recent site inspection revealed that the UD still continued upon expiry of the notice. The Planning Authority will consider to instigate prosecution action.

5. Town Planning Board Guidelines

TPB PG-No. 13G promulgated by the Board on 14.4.2023 are relevant to the application. The areas zoned “OS” and “V” in the Site fall within Category 1 and Category 4 areas respectively under TPB PG-No. 13G (**Plan A-1b**). Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

There is no previous application at the Site.

7. Similar Application

There is no similar application for temporary open storage (vehicles and vehicle parts) and vehicle stripping yard within the same “V” and “OS” zones in the vicinity of the Site in the past five years.

8. The Site and Its Surrounding Area (Plans A-2 to A-4b)

8.1 The Site is:

- (a) paved, occupied by some temporary structures and currently used for the applied uses without valid planning permission; and

(b) accessible from Fan Kam Road via a local track.

- 8.2 The surrounding areas are rural in character mainly intermixed with open storage/storage yards within the “OS” zone to the south; and village settlements of Ha Che (the nearest residential structure/dwelling to the north of the Site is within about 10m; and a low-rise residential development, namely El Castillo (寶翠山莊) to the northeast is within about 50m), grassland and vacant land (including two sites with planning permissions for proposed temporary vehicle parks under applications No. A/YL-PH/996 and 997) within the “V” zone to the north. The storage uses to the north and east of the Site within the “V” zone are without valid planning permission. To the northwest of the Site is a nullah.

9. Planning Intentions

- 9.1 The planning intention of the “V” zone is to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.
- 9.2 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in 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 III** and **IV** respectively.
- 10.2 The following government departments do not support/have concern on the application:

Environment

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

- (a) does not support the application according to the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, as the applied uses would involve use of

heavy vehicles and there are sensitive receivers present within 100m from the Site;

- (b) based on the information available, the applicant could not adequately address his concern on the potential adverse environmental impact from the applied uses;
- (c) should the planning application be approved by the Board, the following approval conditions are proposed:
 - (i) workshop activities, including vehicle-stripping activities shall be conducted within enclosed structures during the planning approval period;
 - (ii) dusty operations shall not be conducted at the open area of the Site during the planning approval period;
 - (iii) the Site shall be properly paved or hard-surfaced during the planning approval period; and
- (d) there was no substantiated environmental complaint received against the Site in the past three years.

Drainage

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

- (a) no drainage proposal is submitted by the applicant. The drainage impacts on the surrounding areas cannot be ascertained; and
- (b) no in-principle objection to the application. Should the Board consider the application acceptable from planning point of view, approval conditions should be stipulated requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal to the satisfaction of his department.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received raising concerns that the proposed vehicle stripping use might cause environmental impact on the area zoned “V” which is intended for residential purpose.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage (vehicles and vehicle parts) and vehicle stripping yard with ancillary facilities for a period of three years and filling of land at

the Site partly zoned “V” (about 53%) and partly zoned “OS” (about 47%) (**Plan A-1a**). The “OS” zone is intended primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. Whilst the applied open storage use is in line with the planning intention of the “OS” zone, the applied vehicle stripping use is not incompatible with the planning intention. The “V” zone is intended to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villagers. The applied uses are considered not in line with the planning intention of the “V” zone. There is no strong planning justification given in the submission for a departure from the planning intention of the “V” zone, even on a temporary basis.

- 12.2 Filling of land within the “V” zone requires planning permission from the Board. In this regard, although CE/MN of DSD has no in-principle objection to the application, he raises the concern that no drainage proposal is submitted by the applicant and the drainage impacts on the surrounding areas cannot be ascertained.
- 12.3 The Site is mainly surrounded by open storage/storage yards within the “OS” zone to the south and village settlements, grassland and vacant land within the “V” zone to the north. The nearest residential structure/dwelling is within about 10m from the Site and the residential development El Castillo is within about 50m. Whilst the concerned departments including the Commissioner for Transport and the Director of Fire Services have no objection to or no adverse comments on the application, DEP considers that this concern on the potential adverse environmental impact from the applied uses is not addressed by the applicant and he does not support the application as the applied uses would involve the use of heavy vehicles and there are sensitive receivers in the vicinity of the Site. It is considered that the applied uses are not compatible with the existing village settlements and the planned use in the surrounding areas within the “V” zone.
- 12.4 The Site falls partly within Category 1 and partly within Category 4 areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

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.

Category 4 areas: applications for open storage and port back-up uses 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. Planning permission for a maximum period of three years may be allowed for an applicant to identify suitable sites for

relocation.

- 12.5 Whilst part of the Site (47%) is within Category 1 areas under TPB PG-No. 13G, more than half of the Site (53%) is within Category 4 areas where application would normally be rejected except under exceptional circumstances. The applied uses in the subject application are considered not in line with TPB PG-No. 13G in that no previous approval for open storage with vehicle stripping uses has been granted at the Site or in the vicinity within this Category 4 area; there are concern and adverse comments from the relevant departments; and there is insufficient information in the submission to demonstrate that the applied uses with filling of land would not have adverse environmental and drainage impacts on the surrounding areas.
- 12.6 Regarding the public comment received 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, the Planning Department does not support the application for the following reasons:
- (a) the applied uses with filling of land are not in line with the planning intention of “V” zone, which is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) the applied uses are not in line with the Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ in that there is no previous approval granted at the site; there are adverse departmental comments on the application and the applicant fails to demonstrate that the applied uses with filling of land would not have adverse environmental and drainage impacts on the surrounding areas.
- 13.2 Alternatively, should the Rural and New Town Planning Committee (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 7.6.2027. 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 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 heavy goods vehicles, 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;
- (d) workshop activities, including vehicle-stripping activities shall be conducted within enclosed structures on the site during the planning approval period;
- (e) dusty operations shall not be conducted at the open area of the site during the planning approval period;
- (f) the site shall be properly paved or hard-surfaced during the planning approval period;
- (g) 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 7.12.2024;
- (h) in relation to (g) 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 7.3.2025;
- (i) in relation to (h) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (j) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) 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 19.7.2024;
- (k) 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 7.12.2024;
- (l) in relation to (k) 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 7.3.2025;
- (m) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (i) 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
- (n) if any of the above planning condition (g), (h), (j), (k) or (l) 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 IV**.

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

Appendix I	Application form with supplementary information received on 11.4.2024
Appendix II	Relevant Extract of TPB PG-No. 13G
Appendix III	Government department's general comments
Appendix IV	Recommended advisory clauses
Appendix V	Fire Services Department's good practice guidelines for open storage sites
Appendix VI	Public Comment
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plans A-1a and A-1b	Location plans
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
JUNE 2024**