

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1015

- Applicant** : Mr TANG Shing Chun represented by R-riches Property Consultants Limited
- Site** : Lot 55 (Part) in D.D. 108, Pat Heung, Yuen Long, New Territories
- Site Area** : About 2,650m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”)
- Application** : Temporary Open Storage of Construction Materials and Machineries with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials and machineries with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “R(D)” on the OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “R(D)” zone also requires planning permission from the Board. The Site is paved and occupied by the applied use with some temporary structures without valid planning permission (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Fan Kam Road via a local track (**Plan A-1a**). According to the applicant, the applied use involves three single-storey structures with a building height ranging from 2.8m to 4.8m and a total gross floor area of about 183m² for storage of construction materials and ancillary facilities (**Drawing A-1**). An area of about 1,460m² (55%) at the Site is used for open storage of construction materials and machineries. The applicant also applies for regularisation of associated filling of land for the entire Site for not more than 0.2m up to about 34.4mPD to 35mPD for site formation (**Drawing A-2**). One parking space for private car and one parking space for container vehicle will be provided within the

Site. A 2.5m-high solid metal wall will be erected along the site boundary. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan and land filling plan submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 The Site is the subject of seven previous planning applications (details in paragraph 6 below) for various open storage uses and vehicle park. The last application (No. A/YL-PH/953) submitted by the same applicant for the same applied use at the same site was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 23.6.2023 but the planning permission was subsequently revoked on 4.8.2023 due to non-compliance with approval conditions.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with Supplementary Statement (**Appendix I**) received on 7.6.2024
 - (b) Further Information (FI) received on 2.10.2024* (**Appendix Ia**)

** accepted and exempted from publication and recounting requirements*
- 1.5 On 2.8.2024, the Committee agreed to defer making a decision on the application for two months 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** and **Ia**, and can be summarised as follows:

- (a) The Site falling within Category 2 areas under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13G) is considered suitable for open storage use. The applicant will make use of the Site for storage of construction materials (i.e. tiles, pipes, bricks etc.) and machineries (i.e. excavator) to support the construction industry.
- (b) The Site is the subject of two previously approved applications submitted by the same applicant for the same open storage use. The last application No. A/YL-PH/953 was approved by the Committee on a temporary basis for three years on 23.6.2023. However, the applicant did not have sufficient time to prepare the fire extinguishers with valid certificate for compliance with the relevant approval conditions. Therefore, the approval was subsequently revoked on 4.8.2023. To support the current application, the applicant has submitted a drainage proposal and a fire services installations (FSIs) proposal.
- (c) The applicant will comply with all the approval conditions and will follow the 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and

Open Storage Sites' (the COP) and other statutory requirements. A 2.5m-high solid metal wall will be erected along the site boundary to minimise nuisance to the surrounding areas. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities will be carried out at the Site.

- (d) The applied use would not cause any adverse drainage, traffic and environmental and visual impacts and would not create significant nuisance to the surrounding areas.
- (e) The applicant will submit Short Term Waiver (STW) application to rectify the applied use after the planning approval has been granted.

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

The applicant is not the “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 Section 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. Town Planning Board Guidelines

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

5. Background

The Site is subject to a planning enforcement action against unauthorized development involving storage use (including deposit of containers). An Enforcement Notice (No. E/YL-PH/939) was issued on 14.11.2024 requiring discontinuation of the unauthorized development (**Plan A-2**).

6. Previous Applications

- 6.1 The Site is the subject of seven previous planning applications (No. A/YL-PH/529, 542, 623, 662, 691, 869 and 953). Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1b**.
- 6.2 Application No. A/YL-PH/529 for temporary vehicle park for heavy vehicles was rejected by the Committee on 3.11.2006 and the planning considerations of which are not relevant to the current application.
- 6.3 Applications No. A/YL-PH/542, 623, 662 and 691 for various temporary open storage uses were rejected by the Committee/the Board upon review between July

2007 and June 2014 mainly for the reasons of not complying with the then TPB PG-No. 13D/13E in that the Site fell within Category 3 areas and no previous planning approval was granted to the Site. However, such considerations are no longer relevant to the current application as the Site now falls within Category 2 areas under the prevailing TPB PG-No. 13G.

- 6.4 The last two previous applications (No. A/YL-PH/869 and 953) submitted by the same applicant for the same use at the same site as the current application were approved with conditions by the Committee on 22.1.2021 and 23.6.2023 respectively, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the proposed use was not incompatible with the surrounding uses; and the concerned government departments consulted in general had no adverse departmental comments or technical concerns could be addressed by relevant approval conditions; and the development was generally in line with the TPB PG-No. 13F/13G. The permissions of these two applications were subsequently revoked on 22.4.2023 and 4.8.2023 respectively due to non-compliance with approval conditions.
- 6.5 Compared with the last approved application (No. A/YL-PH/953), the current application involves the same site area/boundary for the same applied use with changes in layout and major development parameters including increase in the number of structures from one to three, covered area and site coverage, and reduction in gross floor area and number of storey/building height.

7. Similar Applications

There are seven similar applications, involving five sites, for various temporary open storage uses within the “R(D)” zone in the vicinity of the Site in the past five years. While one of the applications (No. A/YL-PH/760) was dismissed by the Town Planning Appeal Board in March 2019, the other six applications were approved with conditions by the Committee between March 2019 and August 2023, mainly on the considerations as stated in paragraph 6.4 above. The planning permission under application No. A/YL-PH/890 was subsequently revoked on 24.3.2023 due to non-compliance with approval conditions. Details of the similar applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:
- (a) paved and occupied by the applied use with some temporary structures without valid planning permission; and
 - (b) accessible from Fan Kam Road via a local track.
- 8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, vehicle parks, residential structures, grassland and vacant land.

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

10.1. Apart from the government departments as set out in paragraphs 10.2 and 10.3 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 V** and **VI** respectively.

10.2. The following government department has adverse comment on the application:

Land Administration

10.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lot No. 55 in D.D. 118 held under the Block Government Lease which contains restriction that no structures are allowed to be erected without the prior approval of the Government;
- (c) there are unauthorised structures and uses on the private lot which is already subject to lease enforcement actions according to case priority. The lot owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD; and
- (d) if the planning application is approved, the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within the said private lot. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered.

10.3. The following government department does not support the application:

Environment

10.3.1 Comments from the Director of Environmental Protection (DEP):

- (a) does not support the application in accordance with the COP as there are sensitive receivers in the vicinity (i.e. a residential structure is about 13m northeast of the Site) and the application involves one parking space for container vehicle, which is considered as 'heavy vehicle' under the context of the COP. Thus, environmental nuisance is expected;
- (b) the applicant is reminded that no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities to be carried out on the Site during the planning approval period; and
- (c) there was one environmental complaint related to the Site on noise aspect in the past three years.

11. Public Comment Received During Statutory Publication Period

On 14.6.2024, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received objecting to the application in view of the number of parking spaces to be provided (**Appendix VII**).

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of construction materials and machineries with ancillary facilities for a period of three years and associated filling of land at the Site zoned "R(D)" (**Plan A-1a**). 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. While the applied use is not in line with the planning intention of the "R(D)" zone, there is currently no known proposal for long-term development at the Site. Taking into account the planning assessments below, the applied use on a temporary basis for a period of three years could be tolerated.
- 12.2 Filling of land within the "R(D)" zone requires planning permission from the Board and the application is to regularise the current land filling at the Site. According to the applicant, the entire Site has already been filled and no further filling of land is required. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and DEP have no objection to the application from drainage and environmental perspectives respectively.

12.3 The applied use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, vehicle parks, residential structures, grassland and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that significant landscape impact arising from the applied use is not anticipated.

12.4 The Site falls within Category 2 areas under TPB PG-No. 13G. The following 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 uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.5 The application generally complies with the TPB PG-No. 13G in that relevant government departments consulted, including the Commissioner for Transport, CE/MN of DSD, Director of Fire Services (D of FS), Director of Agriculture, Fisheries and Conservation, have no objection to or adverse comment on the application. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. DEP does not support the application as the applied use involves the use of heavy vehicle and environmental nuisance is expected as there are sensitive receivers in the vicinity of the Site (i.e. the nearest residential structure is about 13m northeast of the Site). In this regard, the applicant proposes a 2.5m-high solid metal wall along the site boundary to minimise nuisance to the surrounding area and no workshop activities or operation of the machineries will be carried out at the Site. The applicant will also be advised to follow the COP issued by the Environmental Protection Department to minimise the possible environmental nuisance caused by the applied use on the surrounding areas. Regarding DLO/YL of LandsD's concerns on the unauthorised structures and uses within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.

12.6 The Site is the subject of two previously approved applications submitted by the same applicant for the same use at the same site and the planning permissions were revoked due to non-compliance with approval conditions in relation to the drainage and FSIs proposals. For the current application, the applicant has submitted drainage and FSIs proposals in support of the application. CE/MN, DSD and D of FS consider the submitted proposals acceptable. In this regard, sympathetic considerations may be given to the application. Should the application be approved, the applicant will be advised that sympathetic consideration may not be given to any further applications should he fail to comply with any of the approval conditions again resulting in revocation of planning permission.

- 12.7 There are six approved similar applications for various temporary open storage uses as mentioned in paragraph 7 above. Approving the current application is in line with the Committee's previous decisions.
- 12.8 Regarding the public comment objecting to the application, the government departments' 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 22.11.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 22.8.2025;
- (b) the implementation of the accepted 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 22.8.2025;
- (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) 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
- (e) if any of the above planning condition (a) or (b) 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 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 applied use with associated filling of land 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. 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 Statement received on 7.6.2024
Appendix Ia	FI received on 2.10.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comment
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2024**