

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1034

- Applicant** : 簡以凡先生 represented by 鄺麗芬女士
- Site** : Lots 2879 (Part), 2881 (Part), 2888 (Part), 2889 (Part) and 2900 (Part) in D.D. 111, Wing Ning Lei, Wang Toi Shan, Pat Heung, Yuen Long, New Territories
- Site Area** : About 1,480m²
- 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)”) (about 62%)
“Agriculture” (“AGR”) (about 38%)
- Application** : Temporary Open Storage of Second-hand Vehicles and Vehicle Parts 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 second-hand vehicles and vehicle parts 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 partly zoned “R(D)” and partly zoned “AGR” 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)” and “AGR” zones 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 (**Plan A-4**).
- 1.2 The Site is accessible from Kam Tin Road via a local track (**Plan A-1a**). According to the applicant, the applied use involves two 2-storey structures for ancillary office and storage use and one shelter for loading/unloading area with a building height ranging from 5.18m to 5.24m and a total gross floor area of about 162.52m² (**Drawing A-1**). An area of about 744m² (50.2%) at the Site is used for open storage

uses. The applicant also applies for regularisation of associated filling of land for the entire Site for not more than 0.1m up to 33.6mPD for site formation (**Drawing A-2**). One parking space each for private cars, light goods vehicle and heavy goods vehicles are proposed within the Site. The operation hours are between 9:00 a.m. and 5:00 p.m. from Mondays to Fridays, and between 10:00 a.m. and 1:00 p.m. on 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, in part or in whole, is the subject of eight previously approved applications for various open storage uses (details in paragraph 6 below). The last application (No. A/YL-PH/878) submitted by a different applicant for similar open storage use at the same Site was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 9.7.2021 but the planning permission was subsequently revoked on 9.8.2023 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 16.10.2024 and supplementary information
received on 23.10.2024

(b) Further Information (FI) received on 25.11.2024* (**Appendix Ia**)

** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form with Supplementary Statement and FI at **Appendices I** and **Ia**, and can be summarised as follows:

- (a) The applied use is mainly for open storage of second-hand vehicles and vehicle parts only which would be subsequently transferred to other places. It is considered not incompatible with the surrounding areas as there are similar uses in the vicinity.
- (b) The applied use would not cause any adverse drainage, traffic and environmental impacts and would not create significant nuisance to the surrounding areas. To support the current application, the applicant has submitted a drainage proposal and a fire services installations (FSIs) proposal. The applicant will comply with all of the approval conditions.
- (c) The applicant will submit Short Term Waiver (STW) application to rectify the applied use after the planning approval has been granted. The applicant has no relation with the applicant of the previous application at the Site.

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

The Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No.13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 (under “R(D)” zone) and Category 3 (38% under “AGR” zone) areas under TPB PG-No. 13G, and the relevant extract of which is at **Appendix II**.

5. Background

The Site is not subject to any active enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

6. Previous Applications

6.1 The Site, in part or in whole, is the subject of 11 previous applications for various open storage uses. Among the 11 applications, eight applications were approved with conditions while three were rejected by the Committee. Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1b**.

Approved Applications

6.2 Eight applications (No. A/YL-PH/375, 553, 597, 655, 677, 699, 765 and 878) for various temporary open storage uses were approved with conditions by the Committee or upon review by the Board between December 2001 and July 2021, mainly on the considerations that the temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the applied/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 under applications No. A/YL-PH/553, 655, 677, 765 and 878 were subsequently revoked between July 2008 and August 2023 due to non-compliance with approval conditions.

- 6.3 Compared with the last approved application (No. A/YL-PH/878), the current application submitted by a different applicant involves the same site area/boundary for similar temporary open storage use with changes in layout and major development parameters, as well as regularisation of the associated filling of land for the entire Site.

Rejected Applications

- 6.4 Three applications (No. A/YL-PH/207, 534 and 585) for temporary open storage use were rejected by the Committee between August 1998 and July 2009 on the grounds that the proposed use was not in line with the planning intentions of the “R(D)” and/or “AGR” zones; the proposed use did not comply with the then Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’; and there was insufficient information to demonstrate that the proposed use would not have adverse environmental, drainage, landscape impacts and/or pose fire hazard risks.

7. Similar Applications

There are ten similar applications, involving five sites, for various temporary open storage uses (including renewal of planning approvals granted by the Board) within the “R(D)” and/or “AGR” zones in the vicinity of the Site in the past five years. While one of the applications (No. A/YL-PH/821) was rejected by the Committee in November 2019, the other nine applications were approved with conditions by the Committee between September 2019 and May 2024, mainly on the considerations as stated in paragraph 6.3 above. The planning permissions under applications No. A/YL-PH/810, 910 and 923 were subsequently revoked between December 2021 and April 2024 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-4)

- 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 Kam Tin Road via a local track.

- 8.2 The surrounding areas are rural in character with an intermix of open storage/storage yards (with valid permissions under applications No. A/YL-PH/942, and 1001), vehicle repair/demolishing workshops, warehouses, grassland and vacant.

9. Planning Intentions

- 9.1 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.
- 9.2 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.
- 9.3 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, 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 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 Nos. 2879, 2881, 2888, 2889 and 2900 all in D.D. 111 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) Lot No. 2888 in D.D. 111 is covered by Short Term Waiver (STW) No. 3930 for the purpose of temporary open storage of construction materials, machinery (electricity generator), vehicle parts, temporary transit shipment particles and containers for storage of plastics barriers;
 - (d) there are unauthorised structures and uses on Lot Nos. 2879 and 2889 both in D.D.111 which are 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

- (e) if the planning application is approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) shall apply to his office for an STW to permit the structure(s) erected within Lot Nos, 2879, 2881, 2889 and 2900 all in D.D.111. The application(s) 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 applied use is temporary in nature, only erection of temporary structure(s) will be considered.

10.3. The following government departments do 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 “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” as there are sensitive receivers in the vicinity (i.e. a residential structure is about 68m northwest of the Site) and the application involves one parking space for heavy goods vehicle. Thus, environmental nuisance is expected;
- (b) no objection to the filling of land from environmental perspective; and
- (c) no substantiated environmental complaint concerning the Site was received in the past three years.

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” and “R(D)” zones and is generally occupied by some vehicles. Agricultural infrastructures such as road access and water source are available in the area. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Period

On 25.10.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received including one from an individual objecting to the application and one from the Chairman of the Yuen Long Town Centre and Rural East Area Committee indicating no comment on the application (**Appendix VII**). The objecting comment was mainly on the grounds that the Site involved a number of previous applications of which the approvals were revoked and the business has been operating at the Site without valid planning permission. The operation should not be tolerated and granted approval.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of second-hand vehicles and vehicle parts with ancillary facilities for a period of three years and associated filling of land at the Site zoned “R(D)” (62%) and “AGR” (38%) (**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. The planning intention of “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. While the applied use is not in line with the planning intentions of the “R(D)” and “AGR” zones and the DAFC does not support the application from agricultural perspective, there is currently no known proposal for long-term development within the “R(D)” zone 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)” and “AGR” zones requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas within the “AGR” zone. 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) has no objection to the application from public drainage point of view and DEP have no objection to the filling of land from environmental perspective. Should the Committee decide to approve the application, an approval condition requiring reinstatement of the “AGR” portion of the Site to an amenity area upon expiry of the planning permission is recommended.
- 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 repair/demolishing workshops, warehouses, grassland and vacant. 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 and 3 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.

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and/or 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. Planning permission could be granted on a temporary basis up to a maximum period of 3 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.

- 12.5 The application generally complies with the TPB PG-No. 13G in that previous approvals for temporary open storage uses have been granted since 2001 and relevant government departments consulted, including the Commissioner for Transport, CE/MN of DSD and Director of Fire Services 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 vehicles and environmental nuisance is expected as there are sensitive receivers in the vicinity of the Site (i.e. the nearest residential structure is about 68m northwest of the Site). Nonetheless, there was no substantiated environmental complaint concerning the Site in the past three years. The applicant will be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” 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 involved in eight approved previous applications for various temporary open storage uses. The last application (No. A/YL-PH/878) was approved with conditions by the Committee in 2021 but the planning permission was revoked in 2023 due to non-compliance with approval conditions. Nevertheless, the current application involves different layout and major development parameters as well as regularisation of the associated filling of land of the entire Site which was

submitted by a different applicant. There are also nine 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.

- 12.7 Regarding the public comment objecting to the application, 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 comments 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 6.12.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised 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 6.6.2025;
- (b) in relation to (a) 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 6.9.2025;
- (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) 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 17.1.2025;
- (e) the submission of a revised 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 6.6.2025;
- (f) in relation to (e) 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 6.9.2025;
- (g) 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;

- (h) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (i) upon expiry of the planning permission, the reinstatement of the “Agriculture” portion 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 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 intentions of the “R(D)” and “AGR” zones. The “R(D)” zone is intended 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. The “AGR” zone is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intentions of “R(D)” and “AGR” zones, 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 16.10.2024 Supplementary Information received on 23.10.2024
Appendix Ia	FI received on 25.11.2024
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 Comments
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
Plan A-4	Site Photo

**PLANNING DEPARTMENT
DECEMBER 2024**