

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/897

- Applicant** : 騰珀發展有限公司 represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lot 15 S.B (Part) in D.D. 108, Pat Heung, Yuen Long
- Site Area** : About 5,900m²
- 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)”)
[maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Logistics Centre and Ancillary Parking of Vehicles for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary logistics centre and ancillary parking of vehicles for a period of 3 years. The Site is zoned “R(D)” on the Pat Heung OZP and the proposed use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development of any land not exceeding a period of three 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 paved and used for parking of container vehicles, tractors, trailers and lorries with workshop (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves erection of two structures with a total floor area of about 4,207m² and building heights of 1 to 2 storeys (not exceeding 13m) for logistics centre and site office use. Three parking spaces for medium goods vehicles will be provided within the Site. The operation hours are between 8:00 a.m. and 6:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. The Site is accessible via a local track branching off from Fan Kam Road. According to the applicant, the trip rate to/from the Site is estimated to be 6 times per day. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information and plans received on 21.10.2021 **(Appendix I)**
- (b) Further Information (FI) received on 24.11.2021 and 26.11.2021 in response to departmental comments* **(Appendix Ia)**
- (c) FI received on 3.12.2021 in response to departmental comments* **(Appendix Ib)**
**exempted from publication requirement*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary information, plans and FIs in **Appendices I to Ib**. They can be summarized as follows:

- (a) The Site falls within Category 2 areas under the Town Planning Board Guidelines on Application for Open Storage and Port Back-up Uses (TPB PG-No.13F), where favourable consideration will normally be given to applications subject to no major adverse departmental and local objections, or they could be addressed through the implementation of approval conditions.
- (b) There is no known development at the Site, and approval of the proposed development on a temporary basis for 3 years will not jeopardize the long term planning intention of the “R(D)” zone.
- (c) The proposed development is not incompatible with the surrounding land uses.
- (d) There is a similar application No. A/YL-PH/869¹, with its site located to the south of that of the current application, for temporary open storage of construction machinery approved recently by the Rural and New Town Planning Committee (the Committee) in January 2021.
- (e) The proposed development will not result in adverse traffic, environmental, sewage, drainage and landscape impacts nor increase the fire safety risk in the area.

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

The applicant is not the “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. Detailed information would be deposited at the meeting for Members’ inspection.

¹ Planning Application No. A/YL-PH/869 is for a temporary open storage use, whereas the current application is for a port back-up use (logistics centre), and hence should not be regarded as a similar application.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No.13F) promulgated by the Board on 27.3.2020 are relevant to this application. The Site falls within Category 2 areas under the TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Application

The Site is not involved in any previous application.

7. Similar Application

There are no similar applications for temporary logistics uses within the same “R(D)” zone in the vicinity of the Site on the Pat Heung OZP since the promulgation of the then TPB PG-No. 13E on 17.10.2008. However, planning application No. A/YL-PH/533 (straddling the “R(D)” and adjacent “Agriculture” (“AGR”) zones) for proposed temporary logistics and freight yard for a period of 3 years was rejected by the Committee and by the Board on review in 2007. It was rejected mainly on the grounds that the proposed development was not in line with the planning intentions; it did not comply with the then TPB Guidelines for Application for Open Storage and Port Back-up Uses as the site fell within Category 3 areas of the Guidelines; and there was insufficient information in the submission to demonstrate that the proposed development would not have adverse environmental and drainage impacts. Details of the similar application are at **Appendix III** and its location is shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-2 to Plan A-4)

8.1 The Site is:

- (a) paved and used for parking of container vehicles, tractors, trailers and lorries with workshop; and
- (b) accessible from Fan Kam Road via a local access.

8.2 The surrounding areas are rural in character predominated by open storage / storage yards, workshop, warehouse, residential structures / dwellings, cultivated / fallow agricultural land and orchard:

- (a) to the north in the “R(D)” zone are an open storage / storage yard cum workshop and warehouse, and a few residential structures / dwellings, and to the further north in the adjoining “AGR” zone are a few residential structures / dwellings and cultivated farmland;

- (b) to the east and northeast in the adjoining “AGR” zone are an open storage yard (with valid planning permission), a warehouse and an orchard;
- (c) to the south are open storage / storage yards, residential structures / dwellings, an orchard and vacant structures; and
- (d) to the west are vehicle repair workshops, a few residential structures / dwellings and a storage yard.

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 The following government departments have been consulted and their views 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 an Old Schedule Agricultural Lot 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) Should the planning application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) 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(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from the traffic engineering perspective.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to or reverse onto / from public roads at any time during the planning approval period.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the 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.

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

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

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”, she does not support the application as there are sensitive receivers, i.e. residential structures / dwellings located in the vicinity of the Site (nearest 5m to the north) (**Plan A-2**), and the proposed use involves the use of heavy vehicles, thus environmental nuisance is expected.
- (c) Should the application be approved, the applicants are 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 DEP.

Landscape

10.1.5 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) With reference to the aerial photo of 2020, the Site is situated in an area of rural landscape character comprising of tree groups, temporary structures, open storage, car parks and vacant lands. The proposed development is not entirely incompatible with the landscape character of the area.
- (c) According to her site photos, the Site is mostly hard paved with some temporary structures erected on it. Existing common tree species in fair conditions are observed at the periphery of the Site, and a watercourse with vegetation is located outside the eastern site boundary. According to the layout plan of the applicant, significant adverse impact on landscape resources within the Site is not anticipated.
- (d) In view that the adjoining vegetated watercourse outside the eastern site boundary is in close vicinity to the nearby “AGR” zone, proper drainage arrangement should be proposed to ensure no pollutant would be discharged and adversely affect the water quality of the watercourse.
- (e) The applicant should be advised that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. The applicant is reminded to seek approval for any proposed tree works from relevant departments prior to commencement of the works.

Nature Conservation

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

- (a) He has no strong view against the planning application from nature conservation perspective.
- (b) There is a stream course abutting the eastern boundary of the Site. It is noted that the applicant would adopt appropriate measures e.g. confining the works areas and no discharge of construction wastes to the stream course during construction, to minimize the disturbance to the nearby stream course.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) It is noted that the Site is adjacent to an existing natural watercourse. As such, the applicant is reminded that the development should neither obstruct overland flow nor adversely affect existing natural streams, village drains, ditches and the adjacent areas.
- (c) Should the application be approved, approval conditions on the submission of a drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the application 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 FSI 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.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.

- (b) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA 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 licensed structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

10.1.10 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 he also has no particular comment on the application.

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

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

11. Public Comments Received During the Statutory Publication Period

On 29.10.2021, the application was published for public inspection. During the three-week statutory publication period, three public comments from two individuals and a representative of Ta Shek Wu Kiu Tau Tsuen were received (**Appendices IV-1 to IV-3**). The commenters object to the application mainly on the grounds that the proposed development would increase the traffic flow and lead to traffic congestion, cause pollution and environmental nuisance; increase the fire safety risk and affect the living quality of the villagers; the use of heavy vehicles will result in environmental nuisance on the surrounding areas; and raise concern that the proposed development will pollute the nearby stream course.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary logistics centre and ancillary parking of vehicles in the "R(D)" zone for 3 years. 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, and for low-rise, low-density residential developments subject to planning permission from the Board. Although the proposed development is not in line with the planning intention of the “R(D)” zone, there is no known proposal for permanent development at the Site. It is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.

12.2 The proposed development is considered not incompatible with the surrounding area which are primarily rural in character predominated by open storage / storage yards, workshops, warehouse, farmland, orchards and a few residential structures / dwellings.

12.3 The Site falls within Category 2 areas under TPB PG-No. 13F (**Appendix II**). The following guidelines are relevant:

Category 2 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. 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.

12.4 The application is generally in line with the TPB PG-No. 13F in that relevant departments consulted generally have no adverse comments on the application. While DEP does not support the application as there are sensitive receivers, i.e. residential structures / dwellings in the vicinity of the Site (nearest about 5m to the north), and the proposed use involves heavy vehicles whereby environmental nuisance is expected, there has been no environmental complaint received in the past three years. Besides, the proposed development is for logistics centre use and no workshop activity is involved. The applicant states that the trip rate to / from the Site is estimated to be 6 times per day. To mitigate any potential environmental impacts, approval conditions restricting the operation hours and types of vehicles are recommended in paragraphs 13.2 (a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. In addition, the applicant will also be advised to adopt the environmental 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”. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions (d) to (h) in paragraph 13.2 below.

12.5 The Site is not involved in any previous application. There is one similar application (No. A/YL-PH/533) within the same “R(D)” zone for temporary logistics and freight yard use. The application fell within Category 3 areas under the then TPB PG-No. 13D during the time when it was considered. The application was rejected by the Committee and by the Board on review both in 2007 for reasons as stated in paragraph 7 above. The current application is different from the previously rejected application as the subject “R(D)” zone has been reclassified to Category 2 areas under the TPB PG-No. 13F.

- 12.6 Three public comments were received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments 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 use under application could be tolerated for a 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 until 10.12.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference.

Approval Conditions

- (a) no operation between 6:00 p.m. to 8:00 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 vehicle exceeding 24 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) 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 10.6.2022;
- (e) in relation to (d) 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 10.9.2022;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) 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 10.6.2022;
- (h) in relation to (g) 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 10.9.2022;

- (i) if any of the above planning condition (a), (b), (c) or (f) 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
- (j) if any of the above planning conditions (d), (e), (g) or (h) 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 V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "R(D)" zone. 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, and for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification 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 for 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 Supplementary Information and Plans received on 21.10.2021
Appendix Ia	FI received on 24.11.2021 and 26.11.2021
Appendix Ib	FI received on 3.12.2021
Appendix II	Relevant Extract of TPB Guidelines on Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Similar Application within the same "R(D)" zone in the vicinity of the Site on the Pat Heung OZP

Appendices IV-1 to IV-3 Public Comments received during the Statutory Publication Period

Appendix V Advisory Clauses

Drawing A-1 Site Layout Plan

Plan A-1 Location Plan with Similar Application

Plan A-2 Site Plan

Plan A-3 Aerial Photo

Plan A-4 Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**