

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/910

<u>Applicant</u>	: Mr. Ng To Kwong
<u>Site</u>	: Lots 2902 (Part), 2905 (Part), 2909 (Part), 2910 (Part) and 2911 (Part) in D.D. 111, Wing Ning Lei, Wang Toi Shan, Pat Heung, Yuen Long
<u>Site Area</u>	: About 648m 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>Zoning</u>	: “Residential (Group D)” (“R(D)”) [Maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction materials and machineries for a period of 3 years. The Site is zoned “R(D)” on the OZP (**Plan A-1a**) and the applied 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 not exceeding a period of 3 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 used for the applied use without planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the development involves 8 one-storey structures (about 2.62m high) with a total floor area of about 107.9m² for storage uses. Three loading/unloading spaces for light goods vehicle are provided at the Site. The operation hours are between 9:00 a.m. and 5:00 p.m. from Mondays to Fridays, and between 9:00 a.m. and 1:00 p.m. on Saturdays, excluding Sundays and public holidays. The Site is accessible to Kam Tin Road via a

local track. The site layout plan submitted by the applicant is shown on **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary information received on 18.2.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 7.6.2022 **(Appendix Ia)**
 - (c) FI received on 8.7.2022 **(Appendix Ib)**
 - (d) FI received on 20.7.2022 **(Appendix Ic)**
 - (e) FI received on 26.7.2022 **(Appendix Id)**
- 1.4 In light of the COVID-19 pandemic and the special work arrangement for government departments announced by the Government, the Rural and New Town Planning Committee (the Committee), on 1.4.2022, agreed to defer making a decision on some of the applications, including Application No. A/YL-PH/910. Subsequently, as requested by the applicant, the Committee, on 1.6.2022, agreed to defer making a decision on the application for two months so as to allow time for preparation of FI to address the outstanding departmental comments. The applicant submitted FI in June 2022 and the application is now scheduled for consideration by the Committee at this meeting.

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 and FIs at **Appendices I to Id**, which could be summarised as follows:

- (a) The applied use is temporary in nature and will not jeopardise the long-term planning intention of the Site. Similar developments approved by the Board could be found in its vicinity.
- (b) It is difficult to identify sites for storage of construction materials/machinery in the urban area. The Site is suitable for the applied use in terms of size and scale. In view of the remoteness of the Site and its distant location from residential settlements, no environmental nuisance to the surroundings is anticipated.
- (c) The applicant will comply with all the approval conditions to be stipulated by the Board and other statutory requirements should the application be approved. No adverse traffic and drainage impacts are anticipated.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting a notice at the Site 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 for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 are relevant to the application. The Site falls within Category 2 areas under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

5. **Background**

The Site is currently not the subject of any active planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is involved in five previous applications (No. A/YL-PH/206, 304, 377, 789 and 810) for temporary open storage / temporary vehicle repair workshop uses. Four of them for similar / same temporary open storage use were approved with conditions by the Committee or by the Board on review between 1999 and 2019 mainly for reasons that temporary approval of the applications would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; the developments would unlikely induce significant adverse traffic and environmental impacts; relevant departments in general had no adverse comment on the applications and/or their concerns could be addressed by approval conditions. The only rejected application (No. A/YL-PH/206) which is for temporary vehicle repair workshop is not relevant to the current application. Nevertheless, the planning permission of three applications (No. A/YL-PH/304, 789 and 810), all of which were submitted by different applicants, were revoked owing to non-compliance with the approval conditions. The last application No. A/YL-PH/810 was revoked on 20.12.2021 due to non-compliance with approval conditions related to the submission of drainage proposal and implementation of drainage and fire service installations (FSIs) proposals.
- 6.2 Compared with the last application No. A/YL-PH/810, the current application is submitted by a different applicant for the same applied use with slightly smaller site area and similar site layout and major development parameters.

- 6.3 Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 There are 8 similar applications (No. A/YL-PH/741, 765, 776, 814, 821, 831, 878 and 881), involving 5 sites, for various temporary open storage uses within the same “R(D)” zone or straddles the adjoining “Agriculture” (“AGR”) zone in the past 5 years. All applications, except application No. A/YL-PH/821, were approved with conditions by the Committee for similar reasons as stated in paragraph 6.1 above. Application No. A/YL-PH/821 was rejected by the Committee in November 2019 mainly for reasons that no sufficient information was included in the application to demonstrate that the application was not result in adverse traffic impact and hence the application did not comply with the then TPB Guidelines No. 13E. Details of these applications are at **Appendix III** and their locations are shown at **Plan A-1a**.
- 7.2 Apart from the above similar applications which have considered by the Committee, application No. A/YL-PH/923 which involves the same site of application No. A/YL-PH/814 for renewal of planning approval for temporary open storage of vehicles, vehicle parts and construction materials for a period of 3 years, within the same “R(D)” zone (**Plan A-1a**) will be considered at the same meeting.

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

- 8.1 The Site is:
- (a) fenced, paved, deposited with some temporary structures and used for the applied use without planning permission; and
 - (b) accessible to Kam Tin Road via a local track.
- 8.2 The surrounding areas have the following characteristics:
- (a) to its northeast, east and south are open storage yards (including three sites operated with valid planning permission under Applications No. A/YL-PH/831, 878 and 881), a vehicle repair workshop, a warehouse, and vacant / grass land; and
 - (b) to its northwest, west and southwest within an area zoned “Village Type Development” are open storage / storage yards, warehouses, vehicle repair workshop, residential dwellings/structures (the nearest about 10m in the west), parking of vehicles and vacant land. Some of the open storage / storage yard and workshop uses (**Plan A-2**) are suspected unauthorized developments subject to enforcement action by the Planning Authority.

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**

The government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV** and **V** respectively.

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

The application was published for public inspection. During the statutory public inspection period, 2 public comments were received. Two individuals object to the application mainly on the grounds that the development would cause adverse impacts on the traffic, environmental and fire safety aspects thus affecting the well-being of the villagers nearby; and the history of non-compliance of approval conditions of the previous planning approval should be taken into account.

12. **Planning Considerations and Assessments**

- 12.1 The application is for temporary open storage of construction materials and machineries for a period of 3 years at the Site zoned “R(D)”. 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. Whilst 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. It is considered that approval of the application on a temporary basis of 3 years would not jeopardize the long-term planning intention of the Site.
- 12.2 The development is considered not incompatible with the surrounding land uses, which are mainly rural in character predominated by open storage / storage yards, warehouses, vehicle repair workshop, parking of vehicles, residential dwellings / structures and vacant land. Similar applications for temporary open storage uses are approved by the Board in its vicinity (**Plan A-2**).
- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. The following considerations in the 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 considered generally in line with the TPB PG-No. 13F in that previous approvals (Applications No. A/YL-PH/304, 377, 789 and 810) for the same / similar open storage use have been granted since 1999 and relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS, have no adverse comment on the application and there is no local objection conveyed by DO(YL). The applicant has also submitted a drainage proposal, drainage facilities record and FSIs proposal in support of the application. There has been no major change in the planning circumstances since the last approval. To minimize any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. In addition, the applicant will be advised to adopt the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Uses” issued by DEP.
- 12.5 The Site is the subject of 4 previously approved applications for the same / similar temporary open storage uses granted by the Committee / the Board on review between 1999 and 2019. The last two approved applications (No. A/YL-PH/789 and 810) submitted by different applicants for the same applied use were revoked due to non-compliance with approval conditions in relation to the submission / implementation of drainage and FSIs proposals. The applicant has, in this submission, included drainage proposal, drainage facilities record and FSIs proposal, and stated that effort will be made to comply with the approval conditions. CE/MN of DSD and D of FS have no adverse comment on the application.
- 12.6 Among the 8 similar applications for various open storage uses within the “R(D)” zone in the vicinity of the Site in the past five years, 7 of them were approved by the Committee on similar considerations as stated in paragraph 7 above, while the circumstance of the rejected case is different in that it did not comply with the then TPB Guidelines No. 13E. Approval of the current application is in line with the Committee’s previous decisions.
- 12.7 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, government departments’ comments and planning considerations and assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of construction materials and machineries 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 29.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 5:00 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 between 1:00 p.m. and 5:00 p.m. on Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) the implementation of the accepted 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 29.1.2023;
- (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 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 9.9.2022;
- (h) the implementation of the accepted 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 29.1.2023;
- (i) if any of the above planning condition (a), (b), (c), (d) 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 condition (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 development is not in line with the planning intention of the "R(D)" zone which is intended 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 Town Planning Board. There is no strong planning justification 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 information received on 18.2.2022
Appendix Ia	FI received on 7.6.2022
Appendix Ib	FI received on 8.7.2022
Appendix Ic	FI received on 20.7.2022
Appendix Id	FI received on 26.7.2022

Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous applications plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JULY 2022**