

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/937

<u>Applicant</u>	: Tanford Development Limited represented by Chief Force Limited
<u>Site</u>	: Various Lots in D.D. 111 and Adjoining Government Land, Wang Toi Shan, Pat Heung, Yuen Long
<u>Site Area</u>	: About 3,156.4 m ² (including about 384.5 m ² of government land)
<u>Land Status</u>	: (i) Block Government Lease (demised for agricultural use) (about 88% of the Site) (ii) Government Land (GL) (about 12% of the Site)
<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>	: Proposed Temporary Open Storage of Vehicles, Vehicle Parts and Construction Materials 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 open storage of vehicles, vehicle parts and construction materials for a period of 3 years. The Site is zoned “R(D)” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site is paved, fenced, partly vacant and partly deposited with some construction materials, and erected with temporary structures (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed development involves a canopy with a gross floor area of 326m² with seven one to two-storey structures (ranging from about 2m to 4.2m high) erected underneath or near the canopy for site office, meeting room, staff resting room and toilet uses. The open area will be used for storage of vehicles, vehicle parts and construction materials. No workshop-

related activities will be conducted on-site. Two loading/ unloading spaces (with no fixed location) for vehicles under 5.5 tonnes will be provided. The operation hours will be between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible from Kam Tin Road via a local track. The site layout plan submitted by the applicant is shown on **Drawing A-1**.

- 1.3 The Site is involved in ten previous applications (No. A/YL-PH/111, 230, 295, 357, 547, 589, 660, 729, 814 and 923) for various temporary open storage uses (details at paragraph 6 below). When compared with the last approved application (No. A/YL-PH/923), which was submitted by a different applicant, the current application is generally the same in terms of the site area/ boundary, applied use, layout and major development parameters. However, the last approved application was revoked in November 2022 due to non-compliance of approval conditions.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 4.1.2023 **(Appendix I)**
 - (b) Supplementary planning statement **(Appendix Ia)**
 - (c) Further Information (FI) received on 20.2.2023 **(Appendix Ib)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, supplementary planning statement and FI at **Appendices I to Ib**. They can be summarised as follows:

- (a) The application is on a temporary basis, which will not frustrate the long-term planning intention of the Site. Besides, there are similar uses approved by the Rural and New Town Planning Committee (the Committee) of the Board in the vicinity.
- (b) The development proposal under the current application is same as that of the previous approved application (No. A/YL-PH/923). The planning approval was revoked owing to change of ownership of the Site while nobody could take care of the planning application during the interim period. The applicant undertakes to comply with all the approval conditions should the current application be approved.
- (c) The proposed development will not induce adverse traffic, environmental and drainage impacts and fire safety concern to the surrounding areas.

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 requirement 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. 31A) by posting notice at the Site and sending notification letter to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion of the Site, the requirements as set out in TPB PG-No. 31A are not applicable.

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, in part or in whole, is the subject of ten previous applications (No. A/YL-PH/111, 230, 295, 357, 547, 589, 660, 729, 814 and 923) for various temporary open storage uses. All the applications (and renewal of the temporary planning approval granted by the Committee), except Applications No. A/YL-PH/111 and 230 which were rejected by the Board on review in February 1998 and January 1999, were approved with conditions by the Committee between September 1999 and July 2022 mainly on the grounds that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; the applications were in line with the relevant Town Planning Board Guidelines on applications for open storage and port back-up uses, and for renewal of planning approval for temporary use or development; relevant departments in general had no objection and / or their technical concerns could be addressed by appropriate approval conditions. Nevertheless, the planning permissions of Applications No. A/YL-PH/547, 660 and 923 were revoked in December 2008, November 2015 and November 2022 respectively due to non-compliance with the approval conditions. For the last Application No. A/YL-PH/923, it was revoked owing to non-compliance with approval condition related to the submission of drainage facilities condition record. In the current application, the applicant has included relevant technical proposals in support of the application.

- 6.2 Compared with the last application No. A/YL-PH/923, the current application is submitted by a different applicant and is generally the same in terms of site area/ boundary, applied use, site layout and major development parameters.
- 6.3 Details of the previous applications are summarised in **Appendix III** and the locations are shown on **Plan A-1b**.

7. Similar Applications

- 7.1 There are nine similar applications (No. A/YL-PH/765, 776, 789, 810, 821, 831, 878, 881 and 910), involving 6 sites, for various temporary open storage uses within the same “R(D)” zone in the vicinity of the Site in the past five years. All the applications, except application No. A/YL-PH/821, were approved with conditions by the Committee between April 2018 and July 2022 on similar considerations as stated in paragraph 6.1 above. However, the planning permission of Applications No. A/YL-PH/765, 789 and 810 were revoked between July 2020 and December 2021 due to non-compliance with approval conditions.
- 7.2 Application No. A/YL-PH/821 was rejected by the Committee in November 2019 mainly on consideration that the application was not complied with the then TPB PG-No. 13E in which the site fell within Category 3 area; and there was insufficient information in the submission to demonstrate that the development would not result in adverse traffic impact.
- 7.3 Details of these applications are summarised in **Appendix III** 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, fenced, mostly vacant and partly deposited with some construction materials and erected with a few temporary structures; and
 - (b) accessible from Kam Tin Road via a local track.
- 8.2 The surrounding areas have the following characteristics:
 - (a) to its north is a vehicular track leading from Kam Tin Road. To its further north and northeast are open storage yards, a warehouse, vehicle repair workshops and a grave;
 - (b) to its east are a residential dwelling/structure (about 20m in the east), an

open storage yard, graves and grass land; and

- (c) to its west, south and southeast is a warehouse and an area zoned “Conservation Area” (“CA”) where some graves and grass land could be found.

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

All 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 Comment Received During Statutory Publication Period

The application was published for public inspection. During the statutory public inspection period, no public comment was received.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of vehicles, vehicle parts and construction materials for a period of 3 years within the “R(D)” zone. The proposed development 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. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Nevertheless, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 12.2 The proposed development is considered not incompatible with the surrounding land uses, which are mainly rural in character intermixed with open storage yards, warehouse, vehicle repair workshops, residential dwelling/structure and grass land. Similar applications for temporary open storage uses are approved by the Board in its vicinity (**Plan A-1a**).

- 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 generally in line with the TPB PG-No. 13F in that previous approvals (Applications No. A/YL-PH/295, 357, 547, 589, 660, 729, 814 and 923) for the same/ similar open storage use were 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). It is envisaged that the proposed development would not cause significant adverse traffic, environmental and drainage impacts and fire safety concern on the surrounding land uses. To minimise 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 current application, submitted by a different applicant, is the same in terms of the site area/ boundary, layout and major development parameters compared to the previous application. Since the approval of the previous applications, there has been no major change in the planning circumstances.
- 12.6 The Site is the subject of eight previous approved applications for the same or similar temporary open storage use granted by the Committee between 1999 and 2022. The last approved application No. A/YL-PH/923 submitted by a different applicant for the same applied use was revoked due to non-compliance with approval condition in relation to the submission of condition records of the existing drainage facilities on the Site. In this regard, the applicant explains that it is mainly because of the change of site ownership and nobody could take care of the planning application during the interim period. The applicant has, in this submission, included a drainage proposal and a FSIs proposal in support of the application, with no adverse comment received from CE/MN of DSD and D of FS. Besides, there are eight similar applications approved by the Committee for similar temporary open storage uses within the same “R(D)” zone in the past five years. The circumstances of the rejected similar application (No. A/YL-PH/821) were different as stated in paragraph 7.2 above. Approval of the current application is in line with the Committee’s previous decisions.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department considers that the proposed use 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 3.3.2026. 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 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;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, 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;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of condition records of the existing drainage facilities implemented on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.6.2023;
- (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 14.4.2023;
- (h) 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 3.9.2023;
- (i) in relation to (h) above, the implementation of the revised 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 3.12.2023;

- (j) if any of the above planning condition (a), (b), (c), (d) or (e) 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
- (k) if any of the above planning condition (f), (g), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

Advisory clauses

The recommended advisory clauses are 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 which 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 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 received on 4.1.2023
Appendix Ia	Supplementary planning statement
Appendix Ib	FI received on 20.2.2023
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
Drawing A-1	Site layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
MARCH 2023**