

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/945**

<b><u>Applicant</u></b>	:	Ms. LEUNG King King (梁琮琮女士)
<b><u>Site</u></b>	:	Lot 1479 S.B in D.D. 111 and Adjoining Government Land, Leung Uk Tsuen, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	:	About 306.13m <sup>2</sup> (including Government Land (GL) of about 15.7m <sup>2</sup> )
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	:	“Agriculture” (“AGR”)
<b><u>Application</u></b>	:	Temporary Open Storage (Private Car and Vans Prior to Sale) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage (private cars and vans prior to sale) for a period of 3 years at the application Site (the Site) which falls within an area zoned “AGR” on the Pat Heung OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is paved, occupied by a temporary structure and used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the applied use involves a one-storey temporary structure with building height of not more than 4.44m and a total floor area of not more than 15m<sup>2</sup> for storage use. The remaining open area (about 291m<sup>2</sup>) will be used for open storage of cars and vans. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. No medium or heavy goods vehicles exceeding 5.5 tonnes are allowed to be parked/stored on or enter/exit the Site. Seven private car parking spaces and three light goods vehicles parking spaces are provided the Site. The Site is directly accessible from Kam Tin Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in ten previous applications for temporary open storage and shop and services uses (details at paragraph 6 below). The planning permission under the last application (No. A/YL-PH/865), submitted by a different applicant for the same use as the current application, was revoked due to non-compliance with approval conditions. Compared with the last application, the current application is generally the same in terms of site area/boundary, layout and major development parameters except change in the building height of the temporary structure from about 2.44m to not more than 4.44m.
- 1.4 In support of the application, the applicant has submitted the following document:
- (a) Application form with supplementary information received (**Appendix I**) on 15.3.2023, 20.3.2023 and 27.3.2023
  - (b) Further Information (FI) received on 6.7.2023\* (**Appendix Ia**)
  - (c) FI received on 25.10.2023\* (**Appendix Ib**)
  - (d) FI received on 7.12.2023\* (**Appendix Ic**)
- \* exempted from publication and recounting requirements*
- 1.5 On 5.5.2023 and 25.8.2023, the Rural and New Town Planning Committee (the Committee) agreed to defer making a decision on the application each 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 supplementary information, as well as FI at **Appendices I to Ic**. They can be summarised as follows:

- (a) The applied use is temporary in nature and will not frustrate the long-term development of the Site.
- (b) There are similar uses nearby, and the applied use will help complement and facilitate the development of similar businesses in the area.
- (c) No workshop activities will be carried out at the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers are allowed to be parked/stored on or enter/exit the Site. The development will not induce adverse environmental, drainage, and traffic impact to the surrounding area.
- (d) The applicant undertakes to implement the proposed scheme according to the development parameters and layout, and comply with all the approval conditions should the application be approved by the Committee.

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

The applicant is not the “current land owner” of the private land portion 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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For GL portion, the “Owner’s Consent/Notification” Requirements are not applicable.

### **4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site is within Category 2 areas under TPB PG-No. 13G. The relevant extract of the Guidelines is at **Appendix II**.

### **5. Background**

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

### **6. Previous Applications**

- 6.1 The Site is involved in ten previous applications for various temporary uses and shop and services. Whilst application No. A/YL-PH/783 for temporary shop and services use is not related to the current application, the other nine applications (No. A/YL-PH/345, 443, 535, 603, 658, 680, 724, 770 and 865) are for the same/similar temporary open storage use as the current application.
- 6.2 The eight relevant previous applications (No. A/YL-PH/345, 443, 535, 603, 658, 680, 724 and 865) for open storage uses of private cars and lorries/vans were approved with conditions by the Committee between October 2000 and January 2021, mainly on the grounds that temporary approval would not frustrate the long-term planning intention; the applied use was not incompatible with the surrounding land uses; there was no adverse departmental comments or the concerns of the departments could be addressed by relevant approval conditions; and the development was generally in line with the relevant Town Planning Board Guidelines for application for open storage and port back-up uses. The planning permissions for four of them (No. A/YL-PH/658, 680, 724, and 865) were revoked due to non-compliance with time-limited approval conditions.
- 6.3 Application No. A/YL-PH/770 for temporary open storage of private cars and lorries was rejected by the Committee in 2018, mainly on the grounds that the previous planning permissions granted were revoked due to non-compliance with approval conditions, and approval of the application with repeated non-compliances

would set an undesirable precedent for other similar planning applications for temporary uses.

- 6.4 Compared with the last application No. A/YL-PH/865, the current application submitted by a different applicant is generally the same in terms of site area/boundary, layout and major development parameters except change in the building height of the temporary structure from about 2.44m to not more than 4.44m.
- 6.5 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 including renewal of planning approval (No. A/YL-PH/782, 803, 805, 834, 873, 885, 914, 916 and 941), involving five sites, for various temporary open storage uses within or straddling the same “AGR” zone in vicinity of the Site in the past five years. All applications were approved with conditions by the Committee between June 2018 and March 2023 on similar considerations as stated in paragraph 6.2 above. The planning permissions under application No. A/YL-PH/803 and 873 were revoked due to non-compliance with approval conditions.
- 7.2 Details of the 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) currently paved, occupied by a structure, and used for the applied use without valid planning permission; and
  - (b) directly accessible from Kam Tin Road.
- 8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, residential structures/dwellings (the nearest at about 10m to the southwest), vacant lands, vehicle repair workshop, a kennel, car service, and a site office with valid planning permission under application No. A/YL-PH/884.

## **9. Planning Intention**

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.

## **10. Comments from Relevant Government Departments**

10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 The following government department does not support the application:

### **Agriculture and Nature Conservation**

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 zoned “AGR” is occupied by structures and the agricultural infrastructures such as road access and water source are available. 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 noting that the Site is paved.

## **11. Public Comment Received During Statutory Publication Period**

The application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received expressing concerns on the non-compliance status of the previous applications.

## **12. Planning Considerations and Assessments**

12.1 The application is for temporary open storage (private cars and vans prior to sale) for a period of 3 years at the Site zoned “AGR” (**Plan A-1a**). The planning intention of the “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. Whilst the applied use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the applied use on a temporary basis of 3 years could be tolerated.

12.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with open storage/storage yards, residential structures/dwellings and workshops. The Chief Town Planner/Urban Design and Landscape of the Planning Department considers that further adverse

landscape impact arising from the applied use is not anticipated, and has no objection to the application from the landscape planning perspective.

- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13G. 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 TPB PG-No. 13G in that the concerned departments including the Commissioner for Transport, the Chief Engineer/Mainland North of the Drainage Services Department, the Director of Fire Services have no adverse comments on the application. To address the technical requirements of concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below.
- 12.5 There are eight approved previous applications and nine approved similar applications in the vicinity of the Site as mentioned in paragraphs 6 and 7 above. Approving the current application is in line with the Committee's previous decisions. Whilst the last previous application was revoked due to non-compliance with time-limited approval conditions, the applicant undertakes to comply with all approval conditions. In this connection, the applicant will be advised that should he fail to comply with the approval conditions again, resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.6 Regarding the public comment on the application, government departments' comments and planning 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 comment mentioned in paragraph 11, the Planning Department considers that the applied use could be tolerated for a further 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 22.12.2026. 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 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the site at any time during the planning approval period;
- (e) the submission of a run-in/out proposal at Kam Tin Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 22.6.2024;
- (f) in relation to (e) above, the implementation of the run-in/out proposal at Kam Tin Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 22.9.2024;
- (g) 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 22.6.2024;
- (h) in relation to (g) above, the implementation of the revised 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 22.9.2024;
- (i) in relation to (h) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (j) the existing fire service installations implemented on the site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning condition (a), (b), (c), (d), (i) or (j) 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;
- (l) if any of the above planning condition (e), (f), (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; and

### 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 applied use is not in line with the planning intention of the "AGR" zone which 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. 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 for renewal of the planning approval.
- 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**

<b>Appendix I</b>	Application form with supplementary information received on 15.3.2023, 20.3.2023 and 27.3.2023
<b>Appendix Ia</b>	Further Information (FI) received on 6.7.2023
<b>Appendix Ib</b>	FI received on 25.10.2023
<b>Appendix Ic</b>	FI received on 7.12.2023
<b>Appendix II</b>	Relevant extract of TPB PG-No. 13G
<b>Appendix III</b>	Previous and similar applications
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Fire Services Department's good practice guidelines for open storage sites
<b>Appendix VII</b>	Public comment



<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1a</b>	Location plan with similar applications
<b>Plan A-1b</b>	Previous applications plan
<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
DECEMBER 2023**