

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

**APPLICATION NO. A/YL-PH/954**

<b><u>Applicant</u></b>	:	Amber Development Limited (騰珀發展有限公司) represented by Allgain Land Administrators (Hong Kong) Limited
<b><u>Site</u></b>	:	Lot 15 S.B (Part) in D.D. 108, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	:	About 5,900m <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>	:	“Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<b><u>Application</u></b>	:	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 for proposed temporary logistics centre and ancillary parking of vehicles for a period of three years at the application site (the Site), which falls within an area zoned “R(D)” on the Pat Heung OZP. 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). The Site is currently paved and occupied by a few temporary structures, and used for open storage of construction materials, parking of vehicles and workshop without valid planning permission (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the proposed development involves erection of two one to two-storey temporary structures with building heights of not more than 13m and a total floor area of not more than 4,207m<sup>2</sup> for logistics centre (including storage of construction materials for redistribution) and ancillary site office uses. The Site will be fenced off by metal hoardings of about 2.6m in height. Three ancillary parking spaces for medium goods vehicles will be provided within the Site. The proposed operation hours are between 8:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The Site is accessible from Fan Kam Road via a local access. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in an approved previous application (No. A/YL-PH/897) for the same use submitted by the same applicant (detailed in paragraph 5 below), which was the same as the current application in terms of site area/boundary, layout and major development parameters. The planning permission was subsequently revoked 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 information received (**Appendix I**) on 22.5.2023 and 1.6.2023
  - (b) Further Information (FI) received on 27.6.2023\* (**Appendix Ia**)
  - (c) FI received on 6.7.2023\* (**Appendix Ib**)  
*\* 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, supplementary information and FIs at **Appendices I to Ib**. They can be summarised as follows:

- (a) The Site falls within Category 2 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No.13G), 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 proposal at the Site, and approval of the proposed development on a temporary basis for three years will not frustrate the long term planning intention of the “R(D)” zone.
- (c) The applicant has applied for Short Term Waiver (STW) since the previous approval under application No. A/YL-PH/897. As approval of the STW is pending from the Lands Department (LandsD), relevant construction works for the approved scheme cannot be implemented and approval conditions were not fulfilled. If the current application is approved, the applicant will remove the existing unauthorised building structures at the Site, implement the proposals and comply with the approval conditions upon approval of STW.
- (d) The Site will be fenced off with metal hoardings to separate the nearby watercourse from the Site and minimise nuisance to the surrounding area. No workshop activities will be carried out at the Site. No heavy goods vehicle (HGV) exceeding 24 tonnes, including container tractor/trailer, is allowed to be parked/stored on or enter/exit the Site. The applicant will ensure that the construction wastes and water wastes will not be discharged to the watercourse during construction. The proposed development is not incompatible with the surrounding land uses and 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” 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.

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

The TPB PG-No. 13G promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within the Category 2 areas under the TPB PG-No. 13G. The relevant extract of the Guidelines is attached at **Appendix II**.

### **5. Background**

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

### **6. Previous Application**

6.1 The Site is involved in a previous application (No. A/YL-PH/897) for the same use submitted by the same applicant, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in December 2021 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the proposed development was considered not incompatible with the surrounding land uses; and the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by appropriate approval conditions; and the development was generally in line with the then TPB PG-No. 13F. The planning permission was revoked in June 2023 due to non-compliance with the approval conditions including submission and implementation of drainage and fire service installations (FSIs) proposals.

6.2 Details of the previous application are summarised in **Appendix III** and the location is shown on **Plan A-1**.

### **7. Similar Application**

There is no similar application for temporary logistics centre use within the same “R(D)” zone in the vicinity of the Site in the past five years.

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

8.1 The Site is:

- (a) currently paved and occupied by a few temporary structures, and used for open storage of construction materials, parking of vehicles and workshop without valid planning permission; and
- (b) accessible from Fan Kam Road via a local access.

8.2 The surrounding areas have the following characteristics:

- (a) to the north and east are watercourse, residential structures/dwellings (with the nearest one being 5m away the Site), an open storage yard with valid planning permission under application No. A/YL-PH/866, a warehouse and farmland; and
- (b) to the south and west are mainly open storage/storage yards, residential structures/dwellings, workshops and vacant land.

## **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 Apart from the government departments 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 governments departments have adverse comments/do not support the application:

### **Land Administration**

10.2.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL of LandsD):

- (a) LandsD has adverse comments on the application;
- (b) 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; and

- (c) LandsD has grave concerns given that there are unauthorised building works (UBWs) and/or uses on Lot 15 S.B in D.D. 108 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

### **Environment**

#### **10.2.2 Comments of the Director of Environmental Protection (DEP):**

- (a) the Environmental Protection Department (EPD) does not support the application as it would cause traffic of heavy vehicles and there are residential dwellings in the vicinity of the Site (**Plan A-2**), environmental nuisance to the nearby residential uses could be generated by the proposed use;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' to minimise any potential environmental nuisance from the proposed use; and
- (c) there is no substantiated environmental complaint received against the Site in the past three years.

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

The application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual raising concern on non-compliance with approval conditions under the previous application at the Site.

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

- 12.1 The application is for proposed temporary logistics centre and ancillary parking of vehicles for a period of three 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. While the proposed development 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 three years would not frustrate the long-term planning intention of the Site.
- 12.2 The proposed development is considered not incompatible with the surrounding areas which are primarily rural in character predominated by open storage/storage yards, workshops, warehouse, farmland, vacant land and residential structures/dwellings (with the nearest one being 5m away from the Site). While

DEP does not support the application in considering that environmental nuisance could be generated by the proposed development, the applicant proposes to fence off the Site with metal hoardings to minimise nuisance to the surrounding area. According to the submission, the operation hours will be restricted to 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays and HGVs will not be allowed to enter/exit the Site. Relevant approval conditions restricting the operation hours and types of vehicles are recommended in paragraph 13.2 below. To minimise any potential environmental nuisances, the applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites' issued by EPD.

- 12.3 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that he has applied for STW with LandsD and undertakes to remove the existing UBWs at the Site. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is also recommended.

- 12.4 The Site falls within Category 2 areas under TPB PG-No. 13G (**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 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.

- 12.5 The application is considered generally in line with TPB PG-No. 13G in that the concerned departments including the Commissioner for Transport (C for T), the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD), the Director of Fire Services (D of FS) and the Director of Agriculture, Fisheries and Conservation have no adverse comments on the application. The concerns of DEP and DLO/YL of LandsD can be addressed as mentioned in paragraphs 12.2 and 12.3 above. To address the technical requirements of concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below.

- 12.6 The Site is the subject of an approved previous application (No. A/YL-PH/897) submitted by the same applicant for the same temporary logistics centre use as the current application. The planning permission was revoked due to non-compliance with the approval conditions on submission and implementation of drainage and FSIs proposals. In this regard, the applicant has submitted drainage and FSIs proposals in support of the current application, and CE/MN of DSD and D of FS have no in-principle objection to the application subject to submission and implementation of the revised proposals. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.

- 12.7 For the public comment raising concern on non-compliance with approval

conditions as stated in paragraph 11 above, the departmental comments and planning assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department considers that the proposed development 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 14.7.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval conditions

- (a) no operation between 6:00 p.m. 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, as proposed by the applicant, 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 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 14.1.2024;
- (e) in relation to (d) 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 14.4.2024;
- (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 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 14.1.2024;
- (h) in relation to (g) 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 14.4.2024;
- (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 condition (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 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 Board. 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.
- 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 22.5.2023 and 1.6.2023
<b>Appendix Ia</b>	FI received on 27.6.2023
<b>Appendix Ib</b>	FI received on 6.7.2023
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 13G
<b>Appendix III</b>	Previous application
<b>Appendix IV</b>	Government departments' general comments
<b>Appendix V</b>	Recommended advisory clauses
<b>Appendix VI</b>	Public Comment
<b>Drawing A-1</b>	Site layout plan
<b>Plan A-1</b>	Location plan



<b>Plan A-2</b>	Site plan
<b>Plan A-3</b>	Aerial photo
<b>Plan A-4</b>	Site photos

**PLANNING DEPARTMENT  
JULY 2023**