

APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/965

<u>Applicants</u>	:	Mr. Kwok Hung Kau and Ms. Law Yuk Fong
<u>Site</u>	:	Lots 100 RP, 101 S.A & B RP and 101 S.C RP in D.D. 111, A Kung Tin, Pat Heung, Yuen Long
<u>Site Area</u>	:	About 2,352m 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>	:	Renewal of Planning Approval for Temporary Open Storage of Building Materials and Vehicles for Sale for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek renewal of planning permission for temporary open storage of building materials and vehicles for sale for a period of 3 years at the application site (the Site) which falls within an area zoned “R(D)” on the Pat Heung OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use of any land not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board). The Site, which is separated into northern and southern portions by a local access in the middle, is currently paved, fenced-off and used for the applied use with valid planning permission under application No. A/YL-PH/855 (**Plans A-2 to A-4b**). All the approval conditions have been complied with and the planning permission is valid until 14.11.2023.
- 1.2 According to the applicants, the development involves six temporary structures with building heights ranging from 2.5m to 5.7m and a total floor area of 312m² for office, storeroom and electricity meter room. The operation hours are between 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. Four parking spaces, including two for private cars, one for light goods vehicle (LGV) and one for heavy goods vehicle (HGV), as well as three loading and unloading spaces, including one for LGV and two for HGVs are provided on-site. 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 11 previous applications. Compared with the last approved application No. A/YL-PH/855, the current application submitted by the same applicants is the same in terms of the applied use, site area/boundary, layout and major development parameters.

1.4 In support of the application, the applicants have submitted the following document:

- (a) Application form with supplementary information received (**Appendix I**) on 24.7.2023
- (b) Further Information (FI) received on 14.09.2023* (**Appendix Ia**)
** accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the application form, supplementary information and FI at **Appendices I and Ia**. They can be summarised as follows:

- (a) There is no change in the applied use and layout of the development between the current application and the last approved application No. A/YL-PH/855. All the approval conditions of the last permission have been complied with.
- (b) The existing drainage facilities and fire service installations (FSIs) on the Site will be maintained to the satisfaction of the concerned departments.

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

The applicants are the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 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 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**.
- 4.2 The Town Planning Board Guidelines for “Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development” (TPB PG-No. 34D) are relevant to this application. The relevant assessment criteria are attached at **Appendix III**.

5. Background

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

6. Previous Applications

- 6.1 The Site, in part or in whole, is involved in 11 previous applications. Application No. A/YL-PH/12 covering the southern portion of the Site for New Territories Exempted Houses (NTEHs) is not relevant to the current application. The remaining 10 applications for various temporary open storages (including renewal of temporary planning approval), with the last one (No. A/YL-PH/855) submitted by the same applicants for the same applied use with the same layout and major development parameters as the current application, were all approved by the Rural and New Town Planning Committee (the Committee) between March 1998 and November 2020, mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “R(D)” zone; the development was considered not incompatible with the surrounding land uses; the relevant departments consulted generally had no adverse comment on the application or their technical concerns could be addressed by relevant approval conditions; and the development complied with the relevant Town Planning Board Guidelines for application for open storage and port back-up uses. The planning permission under application No. A/YL-PH/644 was revoked in June 2014 due to non-compliance with the approval conditions.
- 6.2 Details of the previous applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

7. Similar Applications

- 7.1 There are four similar applications (No. A/YL-PH/781, 817, 883 and 932), involving two sites, for various temporary open storage uses (including renewal of temporary planning approval) within the same “R(D)” zone in the vicinity of the Site in the past 5 years. All of the applications were approved with conditions by the Committee between June 2018 and December 2022 on similar considerations as stated in paragraph 6.1 above.
- 7.2 Details of the applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) separated into northern and southern portions by a local access in the middle;
 - (b) currently paved, fenced-off and used for the applied use with valid planning permission under application No. A/YL-PH/855; and
 - (c) accessible from Fan Kam Road via a local access.
- 8.2 The surrounding areas have the following characteristics:

- (a) to the north are open storage/storage yards and grassland;
- (b) to the northeast are a plant nursery and residential dwellings/structures (the nearest one within 40m from the Site);
- (c) to the southeast within the “Village Type Development” zone are a plant nursery, residential dwellings/structures and vacant land;
- (d) to the south is a piece of vacant land; and
- (e) to the west are a pumphouse, grassland and Fan Kam Road. To the further west across Fan Kam Road are open storage/storage yards, warehouse and woodland.

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 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 V** and **VI** respectively.

Environment

- 10.2 Comments of the Director of Environmental Protection (DEP):

- (a) 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 applied 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’ issued by the Environmental Protection Department (EPD) to minimise any potential environmental nuisance from the applied use; and
- (c) there is no environmental complaint received against the Site in the past three years.

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 raising concern on any low-rise development in the area.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary open storage of building materials and vehicles for sale 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, and for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the development is not in line with the planning intention of the “R(D)” zone, there is no known proposal for long-term development at the Site. It is considered that approval of the application on a temporary basis for a further period of 3 years would not frustrate the long-term planning intention of the “R(D)” zone.

12.2 The development is considered not incompatible with the surrounding land uses which are predominantly rural in character with residential dwellings/structures, open storage/storage yards and grassland. While DEP does not support the application in considering that environmental nuisance could be generated by the use of heavy vehicles, the Site has direct access to Fan Kam Road without passing through residential dwellings/structures. There was no environmental complaint concerning the site received by EPD in the past three years. To address DEP’s comments, relevant approval conditions restricting the operation hours and prohibiting workshop activities 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 The Site falls within the 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.

12.4 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 Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L of PlanD) and the Director of Fire Services (D of FS)

have no objection to or no adverse comments on the application. The concerns of DEP can be addressed as mentioned in paragraph 12.2 above. To address the technical requirements of concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below.

- 12.5 The application is also generally in line with the TPB PG-No. 34D in that the current application is the same as the last approved application No. A/YL-PH/855 in terms of the applied use, site area/boundary, layout and major development parameters; all the approval conditions have been complied with; the renewal of planning approval period sought is of the same time frame as the previous approval; and there has been no material change in the planning circumstances since the granting of the previous approval.
- 12.6 There are 10 approved previous applications for temporary open storages at the Site and four approved similar applications within the same “R(D)” zone as stated in paragraphs 6.1 and 7.1 above. Approving the current application is in line with the Committee’s previous decisions.
- 12.7 Regarding the public comment raising concern on the application 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 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 and be renewed from 15.11.2023 until 14.11.2026. 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 8:00 a.m., as proposed by the applicants, is allowed on the site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, 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 at the site at any time during the planning approval period;
- (d) the existing drainage facilities on the site shall be maintained at all times during the planning approval period;
- (e) the submission of conditions records of the existing drainage facilities on

the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.2.2024;

- (f) the existing fire service installations implemented on the site shall be maintained in efficient working order at all times during the planning approval period;
- (g) the submission of a report on the condition of the existing water mains underneath the ingress and egress of the Site within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.5.2024;
- (h) in relation to (g) above, the implementation of mitigation measures to avoid impact on the existing water mains within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.8.2024;
- (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.

[The above approval conditions are the same as those under the last approved planning Application No. A/YL-PH/855, except deletion/revision to conditions on the boundary wall, traffic, fire safety and landscape aspects based on the latest comments of C for T, D of FS and CTP/UD&L of PlanD.]

Advisory clauses

The recommended advisory clauses are at **Appendix VI**.

13.3 There is no strong reason to recommend rejection of the renewal application.

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 applicants.

15. Attachments

Appendix I	Application form with supplementary information received on 24.7.2023
Appendix Ia	FI received on 14.9.2023
Appendix II	Relevant extract of TPB PG-No. 13G
Appendix III	Relevant extract of TPB PG-No. 34D
Appendix IV	Previous and similar applications
Appendix V	Government departments' general comments
Appendix VI	Recommended advisory clauses
Appendix VII	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan with similar applications
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
SEPTEMBER 2023**