

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/311

<u>Applicant</u>	: 特斯拉汽車維修有限公司
<u>Site</u>	: Lots 1286 RP (Part) and 1297 in D.D. 114, Kam Sheung Road, Shek Kong, Yuen Long, New Territories
<u>Site Area</u>	: About 1,274 m ² <ul style="list-style-type: none">• Site A: About 1,089 m² (85.5%)• Site B: About 185 m² (14.5%)
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
<u>Zoning</u>	: “Village Type Development” (“V”) <i>[Restricted to a maximum building height of 3 storeys (8.23m)]</i>
<u>Application</u>	: Proposed Temporary Storage of Scrapped Vehicles, Ancillary Office and Workshop 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 storage of scrapped vehicles, ancillary office and workshop for a period of 3 years. The Site falls within an area zoned “V” on the approved Shek Kong OZP (**Plan A-1**). According to the Notes of the OZP, ‘Storage of Scrapped Vehicles’ is neither a Column 1 nor a Column 2 use within the “V” zone. Nevertheless, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site comprises two separate portions, i.e. Sites A and B (**Plan A-2**). Site A is currently hard-paved and occupied with vehicles, containers and auto parts, while Site B is paved and occupied with solar panels and containers (**Plans A-3, A-4a and A-4b**).
- 1.2 Site A is subject of two previous applications for temporary shop and services and office; and temporary public vehicle park respectively. The last application (No. A/YL-SK/231) (**Plan A-1**) was approved by the Rural and New Town Planning Committee (the Committee) on 22.12.2017 for a period of 3 years. The planning approval was revoked on 12.3.2020 due to non-compliance with approval

conditions.

- 1.3 According to the applicant, Site A will consist of two temporary structures (not more than 2 storeys) with a height of not more than 6m and a total floor area of 571m², which will be set up in form of steel canopies and containers, and used for storage of scrapped vehicles, storage of auto parts, ancillary office and workshop uses (**Drawing A-1**). The two temporary structures will cover around 47% of the area of Site A. The applicant supplements that the remaining open area (53% of Site A) will mainly be used for open storage of scrapped vehicles and vehicular circulation space (**Appendix Ib**). Five car parking spaces for private vehicles will also be provided in Site A. Site B is proposed to be an open-air parking area, which comprises two parking spaces for private vehicles and one parking space for light goods vehicles. The overall building structures coverage ratio for the whole Site is about 40%. Site A is accessible directly from Kam Sheung Road, while Site B is accessible from Site A via a local track through private lots between Site A and Site B. The applicant confirms that the vehicular access through the private lots between Site A and Site B has been agreed with the relevant landowners. The operation hours of the proposed scrapped vehicle yard will be 9:00a.m. to 6:00p.m. Mondays to Saturdays. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachment received on 14.5.2021 (**Appendix I**)
 - (b) Supplementary Information received on 25.5.2021 (**Appendix Ia**)
 - (c) Further information (FI) received on 7.7.2021 (*exempted from publication*) (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I, Ia and Ib**, and are briefly summarised as follows:

- (a) the proposed development is for the temporary storage of scrapped vehicles before they are sold to international buyers; and
- (b) the proposed temporary storage yard would not cause adverse traffic and environmental impacts. It could also reduce the amount of landfilled waste to promote recycling of scrapped metal.

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

The applicant is not the “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 (the Ordinance) (TPB PG-No. 31A) by obtaining consent of the current land owners. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

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

5. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site falls within Category 4 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Applications

- 6.1 The Site is subject of two previous applications (Nos. A/YL-SK/169 and 231) for temporary shop and services (horticulture and interior design sample showroom) and office, and proposed temporary public vehicle park (private car only) uses. Details of the applications are summarised in **Appendix III** and the locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-SK/169 for temporary shop and services (horticulture and interior design sample showroom) and office for a period of 3 years only at Site A with a smaller site area was approved with conditions by the Committee on 15.6.2012 mainly on the considerations that the applied development would not frustrate the long-term planning intention of the "V" zone; it was not incompatible with the surrounding areas; it would unlikely generate significant adverse environmental or traffic impacts; relevant Government departments had no adverse comment on the application; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions. However, the planning approval was revoked on 15.12.2012 due to non-compliance with approval conditions in relation to the submission of drainage and fire service installations (FSIs) proposals.
- 6.3 Application No. A/YL-SK/231 for proposed temporary public vehicle park (private car only) for a period of 5 years only at Site A was approved with conditions by the Committee on 6.4.2018 mainly on the considerations as listed out in paragraph 6.2. However, the planning approval was revoked on 12.3.2020 due to non-compliance with approval conditions in relation to the prohibition of parking/storing vehicles without valid licences on the Site, and the posting of a notice to indicate that only private cars are allowed to enter/be parked on the Site.

7. Similar Applications

- 7.1 There are seven similar applications (Nos. A/YL-SK/58, 64, 81, 92, 110, 127 and 149) for open storage of vehicles use within the same "V" zone on the OZP.

Details of these applications are summarised in **Appendix IV** and the locations are shown on **Plan A-1**.

Three rejected applications

- 7.2 Application Nos. A/YL-SK/58, 64 and 149 for temporary open storage of vehicles use (with workshop use for Application No. A/YL-SK/58) all for a period of 3 years were rejected by the Board/Committee between 1998 and 2009 on the grounds that the developments were not in line with the planning intention of the “V” zone; they were incompatible with the surrounding environment; they did not comply with the relevant Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”; and approval of the applications would set undesirable precedents for similar uses.

Four approved applications

- 7.3 Application Nos. A/YL-SK/81, 92, 110 and 127 for temporary open storage of new vehicles prior to sale for a period ranging from 12 months to 3 years were approved with conditions by the Board/Committee between 1999 and 2005 mainly on the considerations that planning approvals for the same use had previously been granted and there was no change in the planning circumstances pertaining to the site since then; favorable consideration was given as an interim arrangement to alleviate the acute shortage of open storage land; and the technical concerns/requirements of the relevant Government departments could be addressed by the approval conditions.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3, and site photos on Plans A-4a and A-4b)

- 8.1 Site A, which is currently hard-paved and occupied by vehicles, containers and auto parts, is accessible directly by Kam Sheung Road, while Site B, which is paved and occupied with solar panels and containers, is accessible from Site A through a local track through private lots between Site A and Site B.
- 8.2 The surrounding areas are predominantly rural in character with mostly domestic dwellings/structures and a few car workshops and vacant land (**Plan A-2**):
- (a) to its east, north and west are the domestic cluster known as To Uk Tsuen. A car workshop is also currently operating at the immediate southwest of Site A;
 - (b) to its southeast across Kam Sheung Road is a vehicle workshop and a piece of vacant land within “Agriculture” (“AGR”) zone; and
 - (c) to its south and southwest across Kam Sheung Road are some domestic dwellings/structures intermixed with a motor vehicle showroom (approved under Application No. A/YL-SK/298), a car workshop, and vacant land.

9. Planning Intention

The planning intention of the “V” zone is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted Houses. Other commercial, community and recreational uses may be permitted on application to the Board.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

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

- (a) the Site comprises Old Schedule Agricultural Lots 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;
- (b) should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularise any irregularities on-site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD; and
- (c) there is no Small House application approved or currently under processing at the Site.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) having regard to the FI (**Appendix Ib**), he has no comment on the application from traffic engineering perspective;

- (b) should the application be approved, approval condition that no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included; and
- (c) the Site is connected to the public road network via a section of a local access road which is not managed by his department. The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road;
- (b) the applicant should provide the run-in/out at Kam Sheung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement; and
- (c) adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) he cannot lend support to the application;
- (b) from the site plan (**Plan A-2**), the Site is surrounded by residential dwellings. Some of the residential dwellings are immediately adjacent to the Site and have direct lines of sight to the Site. It is very likely that noise generated from the proposed development will cause noise nuisance and impact to the nearby residents;
- (c) however, in case the application is approved, the applicant is strongly advised to properly design and maintain the facilities to minimize any potential environmental nuisance, e.g. all car repair or breaking activities should be conducted in an indoor workshop with proper soundproofing materials, etc. Approval conditions that “all car repair or breaking activities should be conducted in an indoor workshop with proper soundproofing materials during the planning approval period” and “paint spraying or bleaching activities are prohibited at the Site at any time, as proposed by the applicant, during the planning approval period” are suggested;

- (d) the applicant is also reminded to observe/note the requirement stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; the requirements stipulated in ProPECC PN5/93 with regard to the soakaway and septic tank system, if connection to public sewers is not feasible; and it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances; and
- (e) there is no environmental complaint in relation to the Site received in the past three years.

Drainage

10.1.5 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) he has no objection in-principle to the proposed development; and
- (b) should the application be approved, conditions should be stipulated in the approval letter requiring the applicant the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

10.1.6 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) before any new building works (including containers / open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorised building works (UBW) under the Buildings Ordinance (BO). An Authorised Person should be appointed as the coordinator for the proposed building works in accordance with BO;
- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be constructed as an acceptance of any existing building works or UBW on the Site under BO; and
- (c) his detailed comments are at **Appendix VI**.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in-principle to the proposal subject to FSIs being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location where the proposed FSIs to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

10.1.8 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

he has not received any comments from locals upon close of consultation and he has no particular comment on the application.

10.2 The following Government departments have no objection to/adverse comment on the application:

- (a) Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 28.5.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals (**Appendix V**) were received. Both public comments object to the application mainly on the grounds that the application would lead to traffic congestion, environmental pollution, fire safety hazard in the area and adversely affect the safety and quality of living of the villagers.

12. Planning Considerations and Assessment

- 12.1 The application is for proposed temporary storage of scrapped vehicles, ancillary office and workshop for a period of 3 years (**Plan A-1**). The planning intention of the “V” zone is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. Land within the zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within the “V” zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. The proposed use is not in line with the planning intention of the “V” zone although the proposed use is temporary, and there is no Small House application approved or currently under processing at the Site as advised by DLO/YL of LandsD. There is no strong planning justification for a departure from the planning intention of the “V” zone, even on a temporary basis.
- 12.2 The proposed development is mainly for the storage of scrapped vehicles and workshop uses. The uncovered area being used as open storage use exceeds half of the Site (about 60% of the whole Site, or about 53% of Site A). Such operation is therefore akin to an open storage to which the TPB PG-No. 13F is relevant to the application. In this regard, the Site falls within Category 4 areas under the TPB PG-No. 13F, and the following considerations are relevant to the consideration of the proposed use:

Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible.

- 12.3 The proposed development is not in line with the TPB PG-No.13F in that the Site falls within Category 4 areas where applications would normally be rejected as stated above. It is noted that the Site is not subject to any previous approval for open storage use and there are adverse departmental comments and local objections against the proposed development. There is no exceptional circumstances in the current application that warrant sympathetic consideration.
- 12.4 The proposed development, which involves storage of scrapped vehicles and auto parts, and workshop operation, is considered not compatible with the surrounding areas which are predominantly rural in character and occupied by domestic dwellings/structures and active/fallow farmland (**Plan A-2**). Some of the residential dwellings are immediately adjacent to the Site. The operation of the storage and workshop uses may bring environmental nuisance to the local residents within the “V” zone. DEP does not support the application as the proposed development on-site would very likely cause noise nuisance to the nearby residents. There is no information in the applicant’s submission to demonstrate that the proposed development would not generate adverse

environmental impact to the surrounding areas. Should the application be approved, it would set an undesirable precedent for similar development and encourage other applications for similar storage and workshop uses within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

- 12.5 The Site comprises two parts, i.e. Sites A and B, which are separated by private lots (**Plan A-2**). According to the applicant, vehicular access to Site B is from Site A via a local track through the private lots. The applicant also supplements that the vehicular access through the private lots has been agreed with the relevant landowners. However, the applicant fails to provide documentary proof to demonstrate that he has the right of way to allow for the vehicular access through these private lots.
- 12.6 There are seven similar applications for open storage of vehicle uses within the same “V” zone. Three applications for temporary open storage of vehicles were rejected by the Board/Committee between 1998 and 2009. The Board/Committee’s considerations on these three applications as stated in paragraph 7.2 are generally applicable to the current application. The rejection of this application is in line with the Board/Committee’s previous decisions. The four similar applications approved by the Board/Committee between 1999 and 2005 are considered not directly comparable to the current application for the reasons as stated in paragraph 7.3. The Site is also subject to two previous applications. However, the proposed uses for these previous applications (i.e. temporary shop and services / public vehicle park uses) are different and therefore not directly relevant to the current application.
- 12.7 Regarding the two objecting public comments received during the statutory publication period, the departmental comments and planning considerations and assessment above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:
- (a) the proposed use is not in line with the planning intention of the “V” zone which is primarily to reflect existing recognised and other villages, and to provide land considered suitable for village expansion and re-provisioning of village houses affected by Government projects. No strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis;
 - (b) the application does not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F) in that no previous approval for open storage use has been granted to the Site and there are adverse departmental comments and local objections against the application;

- (c) the applicant fails to demonstrate that the development would not generate adverse environmental impacts to the surrounding areas; and
- (d) the approval of the application would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such application would result in general degradation of the environment of the area.

13.2 Alternatively, 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 9.7.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00p.m. and 9:00a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays, 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) all car repair or breaking activities should be conducted in an indoor workshop with proper soundproofing materials during the planning approval period;
- (f) paint spraying or bleaching activities are prohibited at the Site at any time, as proposed by the applicant, during the planning approval period;
- (g) the submission of a run-in/out proposal within **6 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 9.10.2021;
- (h) in relation to (g) above, the implementation of the run-in/out proposal within **9 months** from the date of planning approval to the satisfaction of the Commissioner for Transport and the Director of Highways or of the TPB by 9.1.2022;
- (i) the submission of a 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 9.10.2021;
- (j) in relation to (i) above, the implementation of the 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 9.1.2022;

- (k) in relation to (j) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (l) the submission of a fire service installation 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 9.10.2021;
- (m) in relation to (l) above, the implementation of the fire service installation 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 9.1.2022;
- (n) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (k) 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
- (o) if any of the above planning condition (g), (h), (i), (j), (l) or (m) 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 VI**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form received on 14.5.2021
Appendix Ia	Supplementary Information received on 25.5.2021
Appendix Ib	Further information (FI) received on 7.7.2021
Appendix II	Extract of the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix III	Previous Applications

Appendix IV	Similar Applications
Appendix V	Public Comments
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JULY 2021**