

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/381

Applicant : D.S. Motor Services

Site : Lot 1069 S.A RP (Part) in D.D. 106, Shek Kong, Yuen Long

Site Area : About 531 m²

Land Status : Block Government Lease (demised for agricultural use)

Plan : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Open Storage of Vehicles and Vehicle Parts and Vehicle Repair Workshop for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of vehicles and vehicle parts and vehicle repair workshop and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within “AGR” zone also requires planning permission from the Board. The Site is partly fenced off, entirely hard-paved and erected with some structures (**Plan A-4**).
- 1.2 According to the applicant, the planning application is to facilitate the relocation of the business operation at a site of about 368m² in Yuen Long which will be affected by government project, i.e. Second Phase of Yuen Long South New Development Area (YLS NDA).
- 1.3 The Site is accessible from Kam Shui South Road via a local track (**Plans A-1 to A-2**). According to the applicant, the proposed use comprises an area of about 375m² (about 71% of the Site) for open storage of vehicles and vehicle parts, and a single-storey temporary structure (height of about 5.5m) with a floor area of about 156m² for vehicle repair workshop. Five private car parking spaces and two light good vehicle (LGV) parking spaces are proposed within the Site, and only

private car/LGVs as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site. A 6m-wide vehicular access is proposed at the southwestern boundary of the Site (**Drawing A-1**). The operation hours are between 9 a.m. to 7 p.m. from Mondays to Fridays, and from 10:00 a.m. to 7:00 p.m. on Saturdays, with no operation on Sundays and public holidays. The applicant also applies for filling of land for the entire Site with concrete of about 0.1m in depth to provide a solid and flat surface for operation. The site layout and land filling 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 received on 25.6.2024 (Appendix I)

(b) Further Information (FI) received on 14.10.2024* (Appendix Ia)

** accepted and exempted from publication and recounting requirements*

1.5 On 16.8.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application 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 FI at **Appendices I** and **Ia**, and can be summarised as follows:

- (a) the current application aims to facilitate the relocation of an existing workshop and open storage operation (about 368m²) which will be affected by the Second Phase of the YLS NDA;
- (b) the applicant has undergone a thorough site selection process in the territory for identifying a suitable site for relocation of the affected business, taking into account factors including availability of possible sites, suitability, and affordability. Tenders for government sites tailored for brownfield operators displaced by the public projects have been submitted twice but were unsuccessful. The Site is considered suitable with its location, rent, and size (about 531m²), which is comparable with the existing operation (about 368m²).
- (c) the Site is classified as 'Category 2 Area' under the Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses";
- (d) the applicant will follow the "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP") issued by the Environmental Protection Department (EPD) to minimise adverse environmental impacts and nuisance to the surrounding areas; and
- (e) adverse drainage and traffic impacts are not anticipated. Drainage facilities and adequate manoeuvring space will be provided within the Site.

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 (TPB PG-No. 31B) by obtaining consents of all current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site forms part of a larger site which was subject to planning enforcement (case No. E/YL-SK/259) against Unauthorized Development (UD) involving workshop use and storage use. Enforcement Notice was issued on 6.12.2023 requiring discontinuation of the UD. Site inspection on 18.6.2024 and 29.11.2024 revealed that UD on the Site was discontinued (**Plan A-2**).

5. 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. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G, and relevant extracts of which are at **Appendix II**.

6. Previous Application

There is no previous application involving the Site.

7. Similar Applications

7.1 There are three similar applications (No. A/YL-SK/350, 369 and 384) for temporary open storage within the same “AGR” zone in the vicinity of the Site in the past five years, and two of them involved filling of land. All of these similar applications were approved with conditions by the Committee in 2024 mainly on the considerations that the applied/proposed use on a temporary basis could be tolerated; the applied/proposed use was not incompatible with the surrounding land uses; the application was generally in line with TPB PG-No. 13G; and the government departments consulted generally had no adverse comments or their technical concerns could be addressed by approval conditions. There is no similar application for vehicle repair workshop use within the same “AGR” zone in the vicinity of the Site in the past five years.

7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-2 to A4)

8.1 The Site is:

- (a) partly fenced off, hard-paved with concrete and erected with some structures; and
- (b) accessible from Kam Shui South Road via a local track.

8.2 The surrounding areas are rural in character comprising mainly vacant structures, active/fallow farmlands, residential structures, open storage, car parking, a recycle service centre and workshop within an “Industrial (Group D)” (“I(D)”) zone to the southeast, and plant nursery at the further southwest.

9. Planning Intention

9.1 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.

9.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureaux/ Departments

10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 below, other 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 at **Appendices IV and V** respectively.

10.2 The following government bureau supports the application:

Policy Aspect

10.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a business operation for workshop and open storage in Yuen Long, which will be affected by the Yuen Long South Second Phase Development (the project);
- (b) according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere to pave way for the clearance under the project, and the Site under the current application is the most suitable relocation

site. The applicant also claims that the Site, being larger than their current facility, is the only suitable site identified after a thorough site search and is comparable to their existing operational site; and

- (c) in view of the above and subject to no adverse comments on land use compatibility and technical aspects from concerned departments, the application is supported from the policy perspective.

10.3 The following government departments do not support/have concerns on the application:

Agriculture and Nature Conservation

10.3.1 Comments of Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) he does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally occupied by some sundries. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.; and
- (c) no comment from nature conservation perspective.

Environment

10.3.2 Comment of the Director of Environmental Protection (DEP):

- (a) he does not support the application as the proposed use may cause noise nuisance to nearby residential dwellings and land contamination;
- (b) no comment on the filling of land from environmental planning perspective;
- (c) no environmental complaint pertaining to the Site received in the past three years; and
- (d) should the application be approved, the applicant is advised to follow the latest COP and it is the obligation for the applicant to comply with the statutory requirements under relevant pollution control ordinances (**Appendix V**).

Landscaping

10.3.3 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) with reference to the site photos, the Site is hard paved with some temporary structures. No significant landscape resources is observed within the Site. Significant adverse landscape impact arising from the proposed use is not anticipated; and
- (b) based on the aerial photo of 2024, the Site is located in a miscellaneous rural fringe landscape character comprising farmlands, scattered temporary structures and tree groups, village houses within the “V” zone to the north/northwest and warehouses within the “I(D)” zone to the southeast. Noting that farming activity is observed with the same zone, there is concern that approval of the application would further alter the landscape character of the “AGR” zone.

11. Public Comments Received During Statutory Publication Period

The application was published for public inspection on 5.7.2024. During the statutory public inspection period, three public comments were received. The two comments from the Pat Heung Rural Committee and a villager from Ngau Keng Tsuen object to the application on the grounds that the proposed use would induce adverse environmental and traffic impacts on the neighbourhood, and that the proposed use has not been agreed by the Tso Tong, which are the owners of the Site. The remaining comment from an individual queried if any enforcement action has been taken against the proposed use at the Site prior to planning approval (**Appendices VI-1 to VI-3**).

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of vehicles and vehicle parts and vehicle repair workshop and associated filling of land at the Site zoned “AGR” (**Plan A-1**). 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. The proposed use is not in line with the planning intention of the “AGR” zone, and DAFC does not support the application from the agricultural perspective. Notwithstanding this, according to the applicant, the application is to facilitate the relocation of the business operation in Yuen Long which will be affected by the Second Phase of YLS NDA, and SDEV supports the application with the policy objective of facilitating smooth clearance for the Yuen Long South development and providing operating space for displaced brownfield operations still needed by the community. Taking into account the planning assessments below and with SDEV’s policy support, the proposed use on a temporary basis of three years could be tolerated.

- 12.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application and DEP has no comments on the proposed filling of land from drainage and environmental perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended in paragraph 13.2 below should the Committee decide to approve the application.
- 12.3 The proposed use is considered not entirely incompatible with the immediate surrounding land uses which are mainly vacant structures, active/fallow farmlands, open storage and car parking, despite that there are residential structures located to the north. CTP/UD&L, PlanD considers that significant adverse landscape impact arising from the proposed use is not anticipated, but there is concern that the approval of the application would further alter the landscape character of the “AGR” zone.
- 12.4 The Site falls within Category 2 areas under 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 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 or if required, 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 relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. While DEP does not support the application as the proposed use may cause noise nuisance to nearby residential dwellings and land contamination (**Plan A-2**), no environmental complaint against the Site was received in the past three years. To address DEP’s concern, the applicant will be advised to follow the latest COP to minimise any potential environmental nuisance caused by the proposed use on the surrounding areas.
- 12.6 There were three similar approved applications for temporary open storage use within the same “AGR” zone in the vicinity of the Site in the past five years as mentioned in paragraph 7.2 above. Approving the current application is generally in line with the Committee’s previous decisions.
- 12.7 Regarding the public comments mentioned 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 and having taken into account the public comments in paragraph 11 above, PlanD considers that the proposed use 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 6.12.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) 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 6.6.2025;
- (b) in relation to (a) 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 6.9.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) with a valid fire certificate 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 17.1.2025;
- (e) the submission of a 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 6.6.2025;
- (f) in relation to (e) above, the implementation of the 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 6.9.2025;
- (g) if the above planning condition (c) 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;
- (h) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (i) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

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 use with associated filling of land 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification 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 the 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 25.6.2024
Appendix Ia	FI received on 14.10.2024
Appendix II	Relevant Extract of TPB PG-No. 13G
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Appendix VII	Fire Services Department's Good Practice Guidelines for Open Storage Sites
Drawing A-1	Proposed Site Layout and Filling of Land Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos