

RNTPC Paper No. A/YL-SK/384
For Consideration by the
Rural and New Town Planning
Committee on 6.9.2024 20.9.2024

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

APPLICATION NO. A/YL-SK/384

<u>Applicant</u>	:	Vector Scaffolding Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lot 1080 (Part) in D.D.106, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 4,226m ²
<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>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Open Storage of Construction Materials with Ancillary Facilities for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of construction materials with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the approved Shek Kong OZP No. S/YL-SK/9 (**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), notwithstanding that the use or development is not provided for in terms of the OZP. According to the Notes of the OZP for the “AGR” zone, filling of land also requires permission from the Board. The Site is largely formed and hard-paved with concrete, fenced off with scattered tree groups, and currently used for open storage purpose without valid planning permission (**Plans A-3 to A-4b**).
- 1.2 According to the applicant, the applied use involves open storage of construction materials (including scaffold, bricks, tiles, column etc.) at about 2,120m² (or about 50.2%) of the Site, and ancillary site offices and vehicle parking, loading/unloading (L/UL) and circulation space at the remaining area of about 2,106m² (or about 49.8%) of the Site (**Drawing A-1**). The applicant also applies for regularisation of filling of land for the entire Site with concrete of about 0.2m in depth (from the range of +14.5mPD and +14.6mPD to the range of +14.7mPD

and +14.8mPD) for provision of a relatively flat and solid surface for open storage operation (**Drawing A-2**). The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. Two private car parking spaces, and two L/UL spaces respectively for light goods vehicle and medium goods vehicle will be provided on-site. The Site is accessible from Kam Sheung Road via a local track with an ingress/egress at the western part of the Site (**Plans A-1 to A-3**). There are scattered tree groups within the Site which will be retained (**Drawing A-3**). The site layout plan, land filling plan and landscape plan submitted by the applicant are at **Drawings A-1 and A-3** respectively.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary information (**Appendix I**) received on 17.7.2024
- (b) Further Information (FI) received on 23.8.2024* (**Appendix Ia**)

* *accepted and exempted from publication and recounting requirements*

1.4 ***In light of ‘gale/storm signal No. 8’ announced by the Government on 5.9.2024, the Rural and New Town Planning Committee (the Committee) agreed on 8.9.2024 to defer considering of the application to this meeting.***

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 FI at **Appendices I to Ia**. They can be summarised as follows:

- (a) The applied use is temporary in nature and approval of the current application would not jeopardise the long-term planning intention of the “AGR” zone. The Site has already been occupied by the applied use with no active agricultural activities. The Site also falls within Category 2 area according to the Town Planning Board Guidelines (TPB PG-No. 13G) for application for open storage and port back-up uses. The applied use is not incompatible with the surrounding areas which mainly occupied by open storage yards and warehouses, and located at approximately 10m east of the existing “Industrial (Group D)” zone on the same OZP.
- (b) The applied filling of land is necessary for provision of a relatively flat and solid surface for open storage operation. Existing tree groups will be retained. The applicant undertakes to strictly follow the proposed scheme and no further filling of land will be carried out at the Site after planning permission has been granted from the Board.
- (c) The applied use is anticipated to generate infrequent trips. Heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, are prohibited to be parked/stored on or enter/exit the Site at any time during the planning approval period.

- (d) The construction materials would only be stored at the designated storage area during the planning approval period. A 2.5m high solid metal wall will be erected along the site boundary to minimise the nuisance to the surrounding area. The boundary wall will be installed properly by licensed contractor to prevent misalignment of walls. No dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities, and storage of dangerous goods will be carried out at the Site.
- (e) The applicant will strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” and other relevant ordinances. Hence, the applied use would not create significant nuisance to the surrounding areas.

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

The applicant is not a ‘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 posting site notices at the Site and sending notice to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is subject to planning enforcement action (No. E/YL-SK/256) against Unauthorised Development involving storage use. Enforcement Notice was issued on 6.12.2023 requiring discontinuation of the UD.

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. The relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

There is no previous application covering the Site.

7. Similar Application

There is one similar application (No. A/YL-SK/350) for temporary open storage of electric vehicles with charging facilities and ancillary site office within the same “AGR” zone in the vicinity of the Site in the past five years which was approved with conditions by the Committee in January 2024 mainly on the considerations that the proposed use on

a temporary basis could be tolerated; the proposed use was not incompatible with the surrounded land uses; the application was generally in line with the Town Planning Board Guidelines for application for open storage and port back-up uses; and there was no adverse government department comment or their technical concerns could be addressed by relevant approval conditions. Details of the similar application are summarised in **Appendix III** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) largely formed, hard-paved with concrete, fenced off, and with scattered tree groups;
- (b) currently used for storage purpose without valid planning permission; and
- (c) accessible from Kam Sheung Road via a local track.

8.2 The surrounding areas are rural in character with an intermix of open storage yards, cultivated/ fallow agricultural land, residential structures and unused land.

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/pond 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 Departments

10.1 Apart from the government department as set out in 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

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

- (a) he does not support the application from agricultural perspective as the Site possesses potential agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally occupied by some structures and 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.

11. Public Comment Received During Statutory Publication Period

The application was published for public inspection on 26.7.2024. During the statutory public inspection period, one public comment was received from an individual objecting to the application mainly on the ground that there is no history of approval for brownfield use at the Site and no justification to encourage further encroachment onto farmland in the area (**Appendix VI**).

12. Planning Considerations and Assessments

- 12.1 The applicant seeks planning permission for temporary open storage of construction materials with ancillary facilities for a period of three years 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 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. While 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 three years with associated filling of land 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 adjacent areas. In this regard, the Chief Engineer/Mainland North of the Drainage Services Department (CE/MN of DSD) and the Director of Environmental Protection (DEP) have no objection to the application from drainage and environment perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The Site is fenced off, hard paved with some temporary structures and occupied by storage of construction material. The Site is located in an area of rural inland plains landscape character comprising of vegetated vacant lands, farmlands, village houses, scattered tree groups and open storages within the “Industrial” zone to the west of the site. In this connection, the Chief Town Planner/Urban

Design and Landscape, Planning Department (CTP/UD&L of PlanD) has no objection to the application from landscape planning perspective.

- 12.4 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 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 relevant government departments consulted including the Commissioner for Transport, CE/MN of DSD, CTP/UD&L of PlanD, DEP and the Director of Fire Services have no objection to or no adverse comment on the application from traffic, drainage, visual and landscaping, environment and fire safety perspectives respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. The applicant will also be advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by EPD to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.
- 12.6 Regarding the public comment objecting to the application as stated in paragraph 11 above, the departmental comments and planning considerations 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 above, the Planning Department considers that the applied 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 ~~6.9.2027~~ **20.9.2027**. The following conditions of approval and advisory clauses are 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 ~~6.3.2025~~ **20.3.2025**;
- (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 ~~6.6.2025~~ **20.6.2025**;

- (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 ~~18.10.2024~~ **1.11.2024**;
- (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 ~~6.3.2025~~ **20.3.2025**;
- (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 ~~6.6.2025~~ **20.6.2025**;
- (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 applied use with 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. This zone is also intended 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 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 with attachments received on 17.7.2024
Appendix Ia	FI received on 23.8.2024
Appendix II	Extract of 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)
Appendix III	Similar Application
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment
Appendix VII	'Good Practice for Open Storage Sites' issued by the Fire Services Department
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan
Drawing A-3	Landscape Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**