

RNTPC Paper No. A/YL-ST/623
For Consideration by
the Rural and New Town
Planning Committee
on 29.7.2022

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

APPLICATION NO. A/YL-ST/623

<u>Applicant</u>	: FAN Kai Ming
<u>Site</u>	: Lots 16 S.B ss.2 (Part), 16 S.B ss.3, 16 S.B RP (Part), 19 S.A and 19 RP (Part) in D.D. 105 and Adjoining Government Land (GL), San Tin, Yuen Long
<u>Site Area</u>	: About 2,309 m ² (including about 503 m ² of GL)
<u>Lease</u>	: Block Government Lease (demised agricultural use)
<u>Plan</u>	: Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Open Storage and Retail Sale of Construction Machinery for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage and retail sale of construction machinery for a period of 3 years (**Plan A-1a**). According to the 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). The Site is currently used for the applied use with planning permission under application No. A/YL-ST/551 valid until 26.8.2022.
- 1.2 The Site or part of the Site is the subject of 13 previous applications (No. A/YL-ST/53, 85, 124, 133, 224, 244, 327, 386, 432, 493, 508, 551 and 573) (details at paragraph 6 below).

- 1.3 As shown in **Plan A-2**, the Site is accessible from Castle Peak Road – San Tin via a local access with the ingress/egress located at the west of the Site. According to the layout plan (**Drawing A-1**) submitted by the applicant, there is one existing two-storey structure (5.5m in height with a gross floor area of about 474m²). Six private car parking spaces are provided. The operation hours are between 8:00 a.m. and 7:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The current application is same as the last approved application No. A/YL-ST/551 in terms of applied use, site area/boundary and site layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with attachments received on 7.6.2022 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 10.6.2022 (**Appendix Ia**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and SI at **Appendices I and Ia** respectively as summarized below:

- (a) Planning permissions for the applied use had been granted at the Site for many times. All approval conditions of the previous application had been complied with. Facilities related to the conditions including fire services installations are well maintained by the applicant.
- (b) Adverse impact on the surroundings from the application had not been anticipated. Loading/unloading activities will be only undertaken with the Site and will not affect the public road and traffic of the surroundings.
- (c) Short Term Waiver No.3145 and Short Term Tenancy No. 2997 were granted by the Lands Department (LandsD) for the Site. The applicant would like to continue the business and offer job opportunity for its long served staff.

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

The applicant is not a “current land owner” of the private lots within the Site but has complied with the requirement 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 obtaining consent of the current land owner. Detailed information would be deposited at the meeting for Member’s inspection. The remaining part of the Site is GL, and the “owner’s consent/notification” requirements are not applicable.

4. **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. 13F) and Renewal of Planning Approval and Extension of Time Limit for Compliance with Planning Conditions (TPB PG-No. 34D) are relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

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

6. **Previous Application**

- 6.1 The Site is the subject of 13 previous applications including nine for temporary open storage and retail sale of construction machinery (No. A/YL-ST/53, 85, 133, 244, 327, 386, 432, 493, and 551) and the rest for residential development (No. A/YL-ST/124), temporary container tractor/trailer park (No. A/YL-ST/224) and temporary cold storage (No. A/YL-ST/508 and 573) respectively. All except application No. A/YL-ST/224 were approved by the Committee.
- 6.2 The Site is currently used under application No. A/YL-ST/551 which is for renewal of planning approval for temporary open storage and retail sale of construction machinery. The application was approved with conditions by the Committee on 19.7.2019 for a period of 3 years mainly on the consideration that approval of the application on temporary basis would not frustrate the long-term planning intention, the applied use was not incompatible with the surrounding land uses, the application was in line with the then TPB PG-No. 13E; the concerns of government departments could be addressed by approval conditions, and the approval of the application was in line with the previous decision of the Committee. All approval conditions have been complied with.
- 6.3 Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1b**.

7. **Similar Applications**

- 7.1 During the past five years since 2017, there are ten similar applications (No. A/YL-ST/511, 524, 528, 535, 538, 546, 548, 589, 613 and 620) for similar open storage and/or retail uses within the same “R(D)” zone on the OZP which were approved by the Committee mainly on the consideration that approval on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone, the developments were not incompatible with the surrounding land

uses, and the concerns of government departments could be addressed by approval conditions.

- 7.2 Details of the applications are summarised at **Appendix III**. Their locations are shown on **Plan A-1a**.

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

- 8.1 The Site is:

- (a) accessible at the west via a local access from Castle Peak Road – San Tin;
- (b) paved, fenced off, and occupied by the applied use.

- 8.2 The surrounding areas are a mix of storage yards, vehicle parks, vehicle workshops and residential dwellings:

- (a) to the north across Castle Peak Road – San Tin are container vehicle parks, logistics centre, car services, retail of construction materials under application No. A/YL-ST/569, open storage yards and residential dwellings;
- (b) to the east are vehicle park, storage yards and a toilet;
- (c) to the south and southwest are retail of construction materials under application No. A/YL-ST/548, open storage yards of construction materials, residential dwellings and grass land; and
- (d) to the west are open storage yards, residential dwellings 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 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 government department does not support the application:

Environment

10.2.1 Comments of Director of Environmental Protection (DEP):

- (a) there was no environmental complaint related to the Site in the past three years;
- (b) she does not support the application in accordance with the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (the COP); and
- (c) she notes from the Application form that only six private car parking spaces will be provided but no parking/loading/unloading space for heavy vehicles are specified. However, it appears that the applied use is similar to the uses which are likely to generate heavy vehicles specified in the COP. Also, it is reasonable to predict that heavy vehicles would normally be required to carry the construction machinery.

11. Public Comment Received During Statutory Publication Period

On 14.6.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.7.2022, two comments were received from the San Tin Rural Committee and an individual (**Appendix VI**) objection on the grounds that the ingress/egress of the applied and surrounding development are very close to the bend of Castle Peak Road which will impose risk on traffic safety, and the development will result in adverse traffic impact, environmental pollution and increase in fire risk, thereby affecting the living quality and safety of the community.

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary open storage and retail sale of construction machinery for a period of 3 years. The Site falls within “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. The applied use is not in line with the planning intention of the “R(D)” zone. However, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the

“R(D)” zone as there is no immediate development proposal for the Site and similar use as the current proposal has previously been approved and under operation on a temporary basis at the Site. The applied use is also not incompatible with the surrounding open storage yards and vehicle parks with scattered residential dwellings (**Plan A-2**).

- 12.2 The application is in line with the TPB PG No. 13F in that the Site falls within the Category 3 areas. There were previous planning approvals for temporary open storage yards or container vehicle parks at the Site with the last application No. A/YL-ST/551 submitted by the current applicant for the same use approved by the Committee in 2019. All approval conditions of the last application have been complied with and the permission will be lapsed on 26.8.2022. Although DEP does not support the application as environmental nuisance is expected from the heavy vehicle at the Site, no environmental complaint related to the Site was received by DEP in the past three years. Other concerned government departments including C for T, CE/MN of DSD and D of FS have no adverse comment on the traffic, drainage and fire safety aspects respectively (**Appendix IV**), and their technical concerns/requirements could be addressed by approval conditions as recommended in paragraph 13.2 below. Besides, the applicant should be advised to follow the “Code of Practice on Handling Environmental Aspects of Temporary uses and Open Storage Sites”.
- 12.3 The renewal application is generally in line with the TPB PG-No. 34D in that since the last approval, there has been no major change in planning circumstances; adverse planning implications arising from the renewal of the planning approval are not expected; and all the approval conditions under the previous approval have been complied with and the 3-year approval period sought is the same as in the previous application. DEP’s concerns could be addressed by approval conditions and there is no adverse comment from the concerned government departments on traffic, drainage, fire safety and landscape aspects.
- 12.4 There have been nine previously approved applications for the same temporary open storage and retail sale of construction machinery at the Site as detailed in paragraph 6 above. Since 2017, the Committee has approved ten similar applications for open storage and retail shop of vehicle-related business and construction machinery within the same “R(D)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.5 Two public comments were received during the statutory application period objecting to the application as stated in paragraph 11 above. In this regard, relevant departments’ comments as well as the planning assessments and considerations stated above are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taking into account the public comment in paragraph 11, 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 27.8.2022 to 26.8.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 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 washing, dismantling, repairing or workshop activity including metal cutting, drilling, hammering, paint spraying and oil/lubricant changing is allowed on the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period;
- (e) loading/unloading activity is only allowed within the Site at all times during the planning approval period;
- (f) the boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (g) the existing fire services installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (h) the submission of photographic records of the existing drainage facilities on the site 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 27.2.2023;
- (i) in relation to (h) above, the existing drainage facilities shall be maintained at all times during the planning approval period;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g) or (i) 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

- (k) if the above planning condition (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 to those under the last approved Application No. A/YL-ST/551.]

Advisory Clauses

The recommended advisory clauses are attached 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 temporary development is not in line with the planning intention of the "R(D)" zone which is for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings and is also intended for low-rise, low-density residential developments subject to planning permission from the Town Planning Board. There is no strong justification 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 renewal of the planning 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 applicants.

15. Attachments

Appendix I	Application form with attachments received on 7.6.2022
Appendix Ia	SI received on 10.6.2022
Appendix II	Relevant Extracts of TPB PG-No. 13F and 34D

Appendix III	Previous and similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan
Plan A-1a	Location plan with similar applications
Plan A-1b	Previous application plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a to A-4b	Site photos

**PLANNING DEPARTMENT
JULY 2022**