

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-ST/640

<u>Applicant</u>	: Land Jumbo Development Limited
<u>Site</u>	: Lots 16 S.B ss.2 (Part), 16 S.B ss.3, 19 S.C, 19 RP, 21 S.A (Part), 21 RP (Part), 23 S.A, 24 RP (Part), 25 S.A, 26 RP (Part), 42 RP (Part) and 44 S.A (Part) in D.D. 105 and Adjoining Government Land (GL), Castle Peak Road - San Tin, Mai Po Lung, San Tin, Yuen Long
<u>Site Area</u>	: About 3,620 m ² (including about 500 m ² of GL (about 13.8%))
<u>Lease</u>	: Block Government Lease (demised for 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)”) [Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Cold Storage for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary cold storage for a period of three years at the application site (the Site) which is zoned “R(D)” on the approved San Tin OZP (**Plan A-1a**). 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). The Site is partly vacant and partly used for open storage of construction materials and machinery without valid planning permission (**Plans A-4a to A-4b**).
- 1.2 The Site is the subject of two previously approved applications (No. A/YL-ST/508 and 573) submitted by the same applicant for the same use. Subsequently, the two previous applications were revoked in 2020 and 2022 due to non-compliance with approval conditions (detailed in paragraph 5 below). The current application is the same as the previous application (No. A/YL-ST/573) in terms of proposed use, floor area, number of structures and site layout with minor changes to the site area/boundary.

- 1.3 The proposed temporary cold storage is a temperature-controlled storage in Modular Integrated Construction comprising five single-storey structures, including a cold store with ancillary office, an ancillary E&M building and three portable toilets. As shown on **Plan A-2**, the Site is accessible to Castle Peak Road – San Tin to the north of the Site. To facilitate pedestrian access and Emergency Vehicular Access (EVA) to the surrounding areas through the Site, two sets of moveable gates with no lock will be provided in the western and eastern boundary fences respectively for pedestrian and emergency vehicles at all times. Also, a 2m-wide pedestrian access along the eastern Site boundary will be provided and the existing 3.5m-wide vehicular/pedestrian access along the western Site boundary will be retained (**Drawing A-1**). The applicant has submitted a traffic review, a fire service installations (FSIs) proposal and a drainage proposal in support of the current application (**Appendix I to Ie**).
- 1.4 A comparison of the major development parameters of the application and the previous application No. A/YL-ST/573 is set out as follows:

Parameters	Previous Application No. A/YL-ST/573 (a)	Current Application (b)	Difference (b) – (a)
Site Area	About 3,550 m ² (including about 455 m ² of GL)	About 3,620 m ² (including about 500 m ² of GL)	+70 m ² (+2%)
Total Floor Area	About 1,208 m ²	About 1,208 m ²	No change
No. of Structures	5 (cold store with ancillary office, ancillary E&M building and 3 portable toilets)	5 (cold store with ancillary office, ancillary E&M building and 3 portable toilets)	No change
Building Height	Not more than 4.9 m for cold storage building Not more than 4 m for ancillary E&M building Not more than 3 m for portable toilets	Not more than 4.9 m for cold storage building Not more than 4 m for ancillary E&M building Not more than 3 m for portable toilets	No change
No. of Car Parking Space	2 (private car) 1 (motorcycle)	2 (private car) 1 (motorcycle)	No change
No. of Loading / Unloading Space	6 (light goods vehicle (LGV))	6 (LGV)	No change
Operation Hours	9:00 a.m. to 9:00 p.m. daily (including public holidays)	9:00 a.m. to 9:00 p.m. daily (including public holidays)	No change

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

- (a) Application form with attachments received on 9.1.2023 and Supplementary Information (SI) received on 17.1.2023 (Appendix I)
- (b) Further Information (FI) received on 20.3.2023* (Appendix Ia)
- (c) FI received on 12.4.2023* (Appendix Ib)
- (d) FI received on 4.5.2023* (Appendix Ic)
- (e) FI received on 12.6.2023* (Appendix Id)
- (f) FI received on 20.6.2023* (Appendix Ie)

Remarks: * accepted and exempted from publication and recounting requirements.

- 1.6 On 3.3.2023 and 19.5.2023, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer a decision on the application for two months respectively as requested by the applicant to allow time for the applicant to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form with attachments, SI and FIs at **Appendices I to Ie**, which can be summarised as follows:

- (a) The use, layout and operation details under the current application are the same as the previous application No. A/YL-ST/573.
- (b) The previous application No. A/YL-ST/573 was revoked as some of the approval conditions could not be complied with on time, including the submission and implementation of drainage proposal and the implementation of FSIs proposal, due to the delay in granting of Short Term Tenancy (STT) and Short Term Waiver (STW). Nevertheless, the applicant has complied with the condition on the submission of FSIs proposal which was not affected by the granting of STT/STW.
- (c) There will be no major change in trip generation and parking provision comparing to the previous application. The delivery traffic arrangement will be done by pre-booking system by the operator so that only private cars, motorcycles and LGVs are allowed to access the Site during the approval period. Two sets of moveable gates with no lock will be provided at the western and eastern fences respectively for pedestrian and emergency vehicle access to the surrounding areas at all times. A 2m-wide pedestrian access along the eastern Site boundary will be provided and the existing 3.5m-wide vehicular/pedestrian access along the western Site boundary will be retained (**Drawing A-1**).
- (d) The proposed development would not result in adverse environmental impact. The E&M room would be fully enclosed and no noise will be generated during the

operation. Acoustic louver will be provided to avoid impact on the nearby noise sensitive receivers. A drainage proposal has also been submitted to demonstrate that the proposed development would not result in adverse drainage impact on the existing drainage system.

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

The applicant is the sole “current land owner” of the private land within the Site. Detailed information would be deposited at the meeting for Members’ inspection. For the portion of GL, 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. 31A) are not applicable.

4. Background

The Site is currently not subject to active planning enforcement action. Should there be sufficient evidence that the current use constitutes an unauthorised development under the Town Planning Ordinance, appropriate enforcement action would be considered.

5. Previous Applications

- 5.1 The Site (in whole or in part) is involved in 29 previous applications.
- 5.2 12 applications (No. A/YL-ST/185, 196, 199, 205, 209, 212, 224, 235, 249, 265, 286 and 332) mainly for temporary container tractor and trailer park, warehouse, open storage of construction machinery and retail uses for periods of three years were rejected by the Committee between 2002 and 2007 mainly on the grounds that the local track leading to the Site was far below the standard for use by heavy vehicles; the proposed parking arrangement within the Site was considered unsatisfactory; there was insufficient information to demonstrate that the development would not generate adverse environmental, drainage, landscape and ecological impacts on the surrounding areas; and the development was not in line with the planning intention of the “R(D)” zone.
- 5.3 10 applications (No. A/YL-ST/53, 85, 133, 244, 327, 386, 432, 493, 551 and 623) for temporary open storage and retail shop of construction machinery and four applications (No. A/YL-ST/76, 81, 114 and 130) for temporary container trailer/tractor park and warehouse were approved by the Committee between 1998 and 2022 mainly on the consideration that the 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; and the concerns of the government departments could be addressed by approval conditions.
- 5.4 Application No. A/YL-ST/124 approved by the Committee in 2000 for residential development is not relevant to the current application.

- 5.5 The remaining two previous applications (No. A/YL-ST/508 and 573) submitted by the same applicant for proposed temporary cold storage were approved with conditions by the Committee for a period of three years on 12.1.2018 and 10.7.2020 respectively mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone; the proposed use was considered not incompatible with the surrounding land uses; and relevant departments had no objection to or no adverse comments on the application or their technical concerns could be addressed by relevant approval conditions. For application No. A/YL-ST/508, the planning permission was revoked in 2020 due to non-compliance of approval conditions on provision of boundary fencing, implementation of FSIs proposal, drainage proposal as well as landscape and tree preservation proposal. For application No. A/YL-ST/573, while the condition on the submission of FSIs proposal was complied with, the planning permission was revoked in 2022 due to non-compliance with approval conditions on provision of boundary fencing, submission and implementation of drainage proposal and implementation of FSIs proposal.
- 5.6 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1b**.

6. Similar Applications

- 6.1 During the past five years since 2018, there have been three similar applications (No. A/YL-ST/572, 594 and 639) for warehouse (excluding dangerous goods godown) use within the same “R(D)” zone on the OZP which were approved by the Committee on the grounds as stated in paragraph 5.4 above.
- 6.2 Details of the similar applications are summarised at **Appendix II** and their locations are shown on **Plan A-1a**.

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

- 7.1 The Site is:
- (a) accessible to Castle Peak Road – San Tin to the north;
 - (b) paved and partially fenced off;
 - (c) currently used for open storage of construction materials and machinery without valid planning permission; and
 - (d) part of the Site serves as existing pedestrian and vehicular access to the adjacent dwellings (**Plan A-2**).
- 7.2 The Site is located in Mai Po Lung Tsuen and the surrounding areas are predominantly occupied by residential dwellings, open storage yards and vehicle parks:

- (a) to its immediate northeast is an open storage yard of construction materials and machinery under approved application No. A/YL-ST/623 (**Plan A-1b**). To its further north and northeast across Castle Peak Road – San Tin are a car services centre, parking of container vehicles and trailers and a logistic centre;
- (b) to its immediate east are residential dwellings and grass land. To its further east is a shop under approved application No. A/YL-ST/589;
- (c) to its south are an open storage of construction machinery, vacant land and residential dwellings; and
- (d) to its west are residential structures, open storage of construction materials and to its further west is grass land zoned “Green Belt”.

8. 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.

9. Comments from Relevant Government Departments

All 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 provided in **Appendices III and IV** respectively.

10. Public Comments Received During Statutory Publication Period

On 20.1.2023, the application was published for public inspection. During the statutory publication period, 16 public comments were received from a Village Representative of Mai Po Tsuen and individuals including nearby residents objecting to or raising concern on the application on the grounds that the proposed development would block the existing local pedestrian/vehicular access (including EVA); there would be adverse impacts on drainage, sewerage, environment (including noise and air, etc.), natural conservation, traffic and hygiene of the surrounding areas; the proposed use is incompatible with the surrounding land uses; and the applicant has failed to comply with the approval conditions under previous planning approval (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary cold storage for a period of three years. The Site falls within an area zoned “R(D)” on the OZP which is intended 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. Whilst the proposed use is not in line with the planning intention of the “R(D)” zone, approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “R(D)” zone as there is no known development proposal for the Site.

- 11.2 The proposed use with five single-storey structures is considered not incompatible with the surrounding land uses, which are mainly rural in character and are predominantly occupied by open storage/storage yards, vacant land/grass land, parking of vehicle and residential dwellings.
- 11.3 The proposed use would unlikely cause significant adverse impacts. To mitigate any potential environmental impacts to the surrounding areas, the E&M room of the proposed development will be fully enclosed and no noise will be generated during operation. Also, only private cars, motorcycles and LGVs will be allowed to access the Site for delivery through pre-booking system. There are no adverse comments from concerned government departments, including Director of Environmental Protection (DEP), Director of Agriculture, Fisheries and Conservation, Commissioner for Transport, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD), Director of Fire Services (D of FS) and Chief Town Planner/Urban Design and Landscape, Planning Department. Should the application be approved, approval conditions restricting operation hours, types of vehicles, and provision of boundary fencing are recommended in paragraph 12.2 below. Besides, technical requirements of the concerned departments are suggested to be imposed through approval conditions as recommended in paragraph 12.2 below. The applicant will also be advised to follow the revised “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department.
- 11.4 While 12 previous applications mainly for temporary container tractor and trailer park, warehouse, open storage uses were rejected between 2002 and 2007, there have been 16 previously approved applications mainly for temporary open storage, vehicle park and warehouse uses between 1998 and 2022. Amongst them, applications No. A/YL-ST/508 and 573 on the same site for the same cold storage use submitted by the same applicant were approved by the Committee for a period of three years in 2018 and 2020 respectively. Besides, three similar applications for temporary warehouse use within the same “R(D)” zone were approved by the Committee between 2020 to 2023 based on similar considerations. Approval of the current application is in line with the previous decisions of the Committee.
- 11.5 Nevertheless, applications No. A/YL-ST/508 and 573 were subsequently revoked in 2020 and 2022 respectively due to non-compliance with approval conditions. In this regard, the applicant states that the non-compliance of approval conditions was due to the delay in granting of STT. Approval condition on the submission of FSIs proposal, which was not affected by the granting of STT, was complied with in the last planning approval (No. A/YL-ST/573). In the current application,

a FSI's proposal and a drainage proposal have also been submitted by the applicant and accepted by D of FS and CE/MN, DSD. DLO/YL, LandsD also advises that STW and STT have been granted to concerned lots for temporary cold storage use. Hence, it is considered that sympathetic consideration could be given to the current application. The applicant would be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further application.

- 11.6 For the public comments providing concern on or objecting to the application received as detailed in paragraph 10 above, relevant departmental comments and planning assessments above are relevant. Regarding the public comment on the blockage of access, the applicant has proposed the provision of a 2m-wide pedestrian access along the eastern Site boundary and a 3.5m-wide pedestrian and vehicular access (including EVA) along the western Site boundary, and would allow free pedestrian and emergency vehicular accesses through the Site at all times by providing two sets of moveable gates with no lock (**Drawing A-1**). Approval condition requiring the applicant to provide free pedestrian and vehicular accesses (including EVA) as proposed under the application is recommended in paragraph 12.2.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments in paragraph 10, the Planning Department considers that the proposed use could be tolerated for a period of 3 years.
- 12.2 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 until 11.8.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) only private cars, motorcycles and light goods vehicles as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) the provision and maintenance of free pedestrian and vehicular accesses (including EVA) to the surrounding residential dwellings, as proposed by the applicant, 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) the provision of boundary fencing within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 11.11.2023;
- (f) the implementation of the accepted 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 11.2.2024;
- (g) the implementation of the accepted 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 11.2.2024;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) if any of the above planning condition (a), (b), (c), (d) or (h) 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), (f) or (g) 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 attached at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed cold storage is not in line with the planning intention of the "R(D)" zone which is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant renewal of the planning permission.
- 13.2 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.

- 13.3 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.

14. Attachments

Appendix I	Application form with attachments received on 9.1.2023 and SI received on 17.1.2023
Appendix Ia	FI received on 20.3.2023
Appendix Ib	FI received on 12.4.2023
Appendix Ic	FI received on 4.5.2023
Appendix Id	FI received on 12.6.2023
Appendix Ie	FI received on 20.6.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	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
Plan A-4a and A-4b	Site photos

**PLANNING DEPARTMENT
AUGUST 2023**