

RNTPC Paper No. A/YL-KTN/580A  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 26.1.2018

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

**APPLICATION NO. A/YL-KTN/580**

- Applicant** : Ms. WONG Shui-ying
- Site** : Lots 666 S.B (Part) and 667 (Part) in D.D. 110, Kam Tin Road, Yuen Long
- Site Area** : About 436 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Residential (Group D)” (“R(D)”)  
[Maximum plot ratio of 0.2 and maximum building height of 2 storey (6m)]
- Application** : Temporary Open Storage of Vehicles (Lorries, Vans & Private Cars) for Sale for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant sought planning permission to use the application site (the Site) for temporary open storage of vehicles (lorries, vans & private cars) for sale for a period of three years. The Site is currently used for open storage of light goods vehicles (**Plans A-2 to A-4c**) without valid planning permission.
- 1.2 The Site was involved in seven previous applications No. A/YL-KTN/175, 250, 275, 289, 312, 367 and 456 for temporary car accessories retail shop or open storage of vehicles for sale for a period of three years were approved by the Rural and New Town Planning Committee (the Committee) between 2003 and 2015. The last application No. A/YL-KTN/456 for temporary open storage of light goods vehicles for sale for three years submitted by the same applicant as the current application was approved by the Committee on 16.1.2015 and the planning permission lapsed on 17.1.2018. All approval conditions have been complied with.
- 1.3 According to the applicant, four structures with a total floor area of about 213.1m<sup>2</sup> and height ranging from 2.3m to 3.84m are erected within the Site as office and rain shelter purposes. Six parking spaces are provided on-site. According to the applicant, no goods vehicles exceeding 5.5 tonnes will be parked/ stored on-site. The operation hours are between 9:00a.m. to 7:00p.m. from Mondays to

Saturdays. There is no operation on Sundays or public holidays. The Site is accessible to Kam Tin Road to the south. Compared with the last approved application No. A/YL-KTN/456, the current application is similar in terms of applied use and the same in site area/ boundary, number of structures, floor area and site layout. The site layout as 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 9.11.2017 **(Appendix I)**
- (b) Further Information (FI) received on 27.12.2017 in response to Transport Department's comments **(Appendix Ia)**  
*(accepted and exempted from publication and recounting requirement)*
- (c) FI received on 16.1.2018 in response to Transport Department's comments **(Appendix Ib)**  
*(accepted and exempted from publication and recounting requirement)*

1.5 As requested by the applicant, the Committee agreed to defer consideration of the application on 22.12.2017 to allow more time for the applicant to prepare FI to address the departmental comments. After the deferral request, the applicant submitted responses to departmental comments to support the application.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in **Appendix I**. They can be summarized as follows:

- (a) The Site is temporarily used as an open storage of vehicles (lorries, vans and private cars) for sale. The development complements the car yards and car dismantling business along Kam Tin Road. The development utilises the land in a more centralised and efficient way for those frequent visitors to the area.
- (b) The vehicles stored at the Site will be transported/ driven to the Site during daytime and likely to be remained in the Site for one or two weeks before the vehicles are sold. Therefore, the number of trips generated by the vehicles will be relatively small.
- (c) The applicant has strictly adhered to the recommendations / conditions under the previous approved applications. No modification to the existing permanent structures is made and minimum environmental, traffic and drainage impacts were generated in the past years.
- (d) The parking spaces as shown on the plan are parking for lorries, vans and private cars for sales. No workshop would be provided within the Site.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Town Planning Board Guidelines**

Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses’(TPB PG-No.13E) are relevant to the application. The Site is within Category 3 areas under TPB PG-No. 13E promulgated by the Town Planning Board (the Board) on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

**5. Background**

The Site is currently not the subject of any active planning enforcement case.

**6. Previous Applications**

6.1 The Site was involved in seven previous Applications No. A/YL-KTN/175, 250, 275, 289, 312, 367 and 456. Details of the applications are summarized in **Appendix III** and the location of the site is shown on **Plan A-1**.

6.2 Applications No. A/YL-KTN/175, 250 and 275 were for temporary car accessories retail shop and ancillary open storage of light goods vehicles for sale for a period of three years or renewal of previous approval for the same use (Application No. A/YL-KTN/250 only). Applications No. A/YL-KTN/250 and 275 were submitted by the same applicant as the current application. All these three applications were approved by the Committee on 25.7.2003, 16.6.2006 and 11.5.2007 for three years respectively on similar consideration that the developments were compatible with the surrounding land uses; there was no adverse comment from concerned departments or local objections received; and / or previous approval had been granted and the applicant had made effort in complying with the approval conditions. Applications No. A/YL-KTN/250 and 275 were revoked on 16.12.2006 and 11.2.2008 respectively due to non compliance with condition on provision of fire service installations.

6.3 Applications No. A/YL-KTN/289, 312, 367 and 456 submitted by the same applicant as the current application were for temporary open storage of light goods vehicles for sale for a period of three years. All four applications were approved by the Committee on 22.2.2008, 7.11.2008, 16.12.2011 and 16.1.2015. for three years respectively on similar consideration that the development were in line with TPB PG-No. 13D or 13E in that previous approvals have been granted; the applicant had demonstrated effort in complying with the approval conditions; and the concern of relevant government departments could be addressed by imposing appropriate planning conditions. Application No. A/YL-KTN/289 was

revoked on 22.8.2008 due to non compliance with condition on provision of fire service installations. All approval conditions of Applications No. A/YL-KTN/312, 367 and 456 including the conditions on drainage and fire safety aspects were complied with. The planning permission of the last approved application No. A/YL-KTN/456 lapsed on 17.1.2018.

- 6.4 Compared with the last application No. A/YL-KTN/456, the current application is similar in terms of applied use and the same in site area/boundary, number of structures, floor area and site layout.

## 7. Similar Applications

- 7.1 There were a total of eleven similar applications (No. A/YL-KTN/328, 332, 336, 381, 389, 395, 455, 462, 486, 491 and 539) for various temporary open storage uses within the same “R(D)” zone or straddling “Open Space” (“O”) zone since the promulgation of the TPB PG-No. 13E on 17.10.2008. All the similar applications were approved with conditions by the Committee on 5.6.2009, 7.8.2009, 20.11.2009, 18.5.2012, 5.10.2012, 9.11.2012, 2.1.2015, 22.5.2015, 6.11.2015, 20.11.2015 and 11.11.2016 respectively. Details of the applications are summarized in **Appendix IV** and the locations of the sites are shown on **Plan A-1**.
- 7.2 All the applications were approved on similar considerations that the proposed developments on a temporary basis would not frustrate the long term planning intention for the “R(D)” or “O” zones; there was no programme for development of the “O” zone by departments (Application No. A/YL-KTN/455 only); the developments were not incompatible with the surrounding land uses and being in line with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that previous approvals were granted and there were no adverse departmental comment or local objection.

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

- 8.1 The Site is:
- (a) paved and currently use for open storage of light goods vehicles; and
  - (b) located to the northern side of Kam Tin Road with direct access from the road (**Plan A-1**).
- 8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, a workshop, a car service shop, domestic dwellings/structures and vacant / unused land:
- (a) to the immediate and further north are domestic dwellings/structures (the nearest is about 10m) (**Plan A-2**);

- (b) to the immediate west are open storage yards for vehicles, vehicle parts and a repair workshop. A car service shop and domestic dwellings/ structures are found further west;
- (c) to the south is Kam Tin Road. Across Kam Tin Road is the Shek Kong Barracks; and
- (d) to the immediate east is another open storage of vehicle for sale permitted under Application No. A/YL-KTN/539. A tailor is located to the further east.

## 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 Town Planning Board.

## 10. **Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application are summarized 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 Scheduled 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. Lot 666 S.B in D.D.110 is covered by a Short Term Waiver (STW) No. 1946 to permit structures erected thereon for the purpose of “rattan furniture shop”. Lot No. 667 in D.D. 110 is covered by a STW No. 4478 to permit structures erected thereon for the purpose of “temporary open storage of vehicles (lorries, vans and private cars) for sale”.
- (b) The Site is accessible to Kam Tin Road via Government Land (GL). His office provides no maintenance works for the GL involved and does not guarantee any right-of-way.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within SKAHRA.

- (d) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions to regularize any irregularities (if any) on site. Such application(s) 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 premium or fee, as may be imposed by the LandsD.

### **Traffic**

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

He has no comment on the application from traffic engineering perspective. The following clause should be included in the approval condition.

- (i) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.
- (b) No adverse comment from the “Upgrading of Remaining Sections of Kam Tin Road and Lam Kam Road” project point of view.

### **Environment**

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

- (a) There was no environmental complaint received for the Site in the past three years. However, he does not support the application as there are sensitive receivers, i.e. residential dwellings located in the vicinity of the Site (the nearest is about 10m to the north) (**Plan A-2**), and environmental nuisances are expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary uses and Open Storage Sites” issued by DEP.

### **Nature Conservation**

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

Noting that the Site has been hard-paved and used for similar purpose for a number of years, he has no comment on the application from the nature conservation point of view.

### **Drainage**

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

- (a) He has no in-principle objection to the development.
- (b) Presumably, the applicant would implement the same drainage facilities as those for the previous application No. A/YL-KTN/456. Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/456 and submission of records of the existing drainage facilities on site should be included.

### **Fire Safety**

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

- (a) He has no in-principle objection to the proposal subject to fire service installations (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 of where the proposed FSI to be installed should be clearly marked on the layout plans. Besides, the good practice guidelines for open storage sites in **Appendix V** should be adhered to.
- (c) Having considered the nature of the open storage use, the condition on provision of fire extinguisher(s) within 6 weeks from the date of the planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS251) to his department for approval.

- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service fire service requirements will be formulated upon receipt of formal submission of general building plans.

**Building Matters**

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

- (a) As there is no record of approval by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
  - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorized building work (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
  - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
  - (iii) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
  - (iv) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
  - (v) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.



### **District Officer's Comments**

10.1.9 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 comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager/NTW, Civil Engineering and Development Department (PM/NTW, CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Services (DEMS).

## **11. Public Comment Received During Statutory Publication Period**

On 17.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.12.2017, no public comment was received.

## **12. Planning Considerations and Assessments**

12.1 According to TPB PG-No. 13E, the Site falls within Category 3 areas. The following guidelines are relevant:

Category 3 areas: within these areas, "existing" and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted a temporary basis up to a maximum period of 3 years.

12.2 The application is for temporary open storage of vehicles (lorries, vans and private cars) for sale in "R(D)" zone. It is not in line with the planning intention of the "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 and for low-rise, low-density

residential developments subject to planning permission from the Board. Nevertheless, there is no known development for this part of the “R(D)” zone. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.

- 12.3 The applied open storage use is not incompatible with the surrounding areas which are intermixed with open storage/storage yards, a workshop, a car service shop, domestic dwellings/structures and vacant / unused land. There are also previous and similar applications for various open storage uses at the Site and in the vicinity. Approval of the application is in line with the Committee’s previous decisions.
- 12.4 The application is considered generally in line with TPB PG-No.13E in that there were previous planning approvals for similar open storage use approved by the Committee. Compared with the last approved application (No. A/YL-KTN/456) submitted by the same applicant as the current application, the current application is similar in terms of the applied use, and the same in site area/boundary, number of structures, floor area and site layout. The applicant has also complied with all the approval conditions related to submission of existing drainage records and submission/ provision of fire extinguisher(s) and FSIs under the last planning approval. Since previous approvals have been granted, sympathetic consideration could be given to the current application.
- 12.5 Relevant departments consulted, except DEP, have no adverse comment on the application. While DEP does not support the application as there are sensitive receivers, i.e. domestic dwellings/ structures in the vicinity of the Site (the nearest about 10m away to the north) (**Plan A-2**) and environmental nuisance is expected, there was no environmental complaint received by DEP in the past three years. To address the concern of the DEP on the possible nuisance generated, approval conditions restricting the operation hours, types of vehicles and prohibiting workshop-related activity are recommended in paragraphs 13.2 (a) to (d). Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be advised to adopt the environmental mitigation measures as set out in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 13.2 (e) to (j).
- 12.6 No public comment was received during the statutory publication period.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12, the Planning Department considers that the temporary open storage of vehicles (lorries, vans & private cars) for sale could be tolerated for a 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 until 26.1.2021. 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 9:00 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) 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;
- (e) no vehicle is allowed to queue back to or reverse onto/ from public road at any time during the planning approval period;
- (f) the existing drainage facilities on the Site should be maintained at all times during the planning approval period;
- (g) the submission of the record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.4.2018;
- (h) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) 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 9.3.2018;
- (i) the submission of fire services 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 26.7.2018;
- (j) in relation to (i) above, the provision of fire services installations 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 26.10.2018;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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;

- (l) if any of the above planning conditions (g), (h), (i) or (j) 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
- (m) upon 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 attached at **Appendix VI**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:
- (a) the development is not in line with the planning intention of the "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 Town Planning Board. There is no strong justification given in the submission for the departure from the planning intention of the "R(D)" zone, even on a temporary basis; and
  - (b) the applicant fails to demonstrate that the development would not have adverse environmental impact on the surrounding areas.

#### **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 received on 9.11.2017
- Appendix Ia**                      FI received on 27.12.2017

<b>Appendix Ib</b>	FI received on 16.1.2018
<b>Appendix II</b>	Relevant extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Previous s.16 applications covering the application site
<b>Appendix IV</b>	Similar applications within the same “R(D)” zone on the Kam Tin North OZP
<b>Appendix V</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendix VI</b>	Advisory Clause
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
JANUARY 2018**