

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

**APPLICATION NO. A/YL-KTN/631**

<b><u>Applicant</u></b>	: Firm Yield Development Limited
<b><u>Site</u></b>	: Lot 529 S.B (Part) in D.D. 109 and Lot 644 S.A RP (Part) in D.D. 110 and adjoining Government land, Kam Tin Road, Kam Tin, Yuen Long
<b><u>Site Area</u></b>	: About 460m <sup>2</sup> (about) (including Government land of about 38m <sup>2</sup> (8%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Kam Tin North OZP No. S/YL-KTN/9
<b><u>Zoning</u></b>	: “Open Space” (“O”) (371.05m <sup>2</sup> or 80.68%);  “Residential (Group D)” (“R(D)”) (88.88m <sup>2</sup> or 19.32%) [maximum PR of 0.4 and building height of 3 storeys (9m)]
<b><u>Application</u></b>	: Temporary Open Storage of Private Cars for a Period of 3 Years

1. **The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of private cars for a period of 3 years. The Site is currently paved, fenced off and used for open storage of private cars and vehicle repair workshop without a valid planning permission (**Plans A-2 and A-4b**).
- 1.2 The Site was involved in seven previous applications (No. A/YL-KTN/33, 77, 128, 148, 160, 241 and 455). All applications, except No. A/YL-KTN/148, were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1997 and 2015 for public car park or temporary open storage of private cars for a period of 12 months or 3 years. The last application No. A/YL-KTN/455 for the same applied use submitted by the same applicant as the current application was approved with conditions by the Committee on 2.1.2015. However, the planning permission was revoked on

13.2.2015 due to non-compliance of planning approval condition in relation to the provision of fire extinguisher(s).

- 1.3 According to the applicant, three 1 to 2 storeys structures with a total floor area of about 238m<sup>2</sup> and height ranging from 3m to 6m are erected within the Site as rain shelter, site office and storage uses. There are 14 storage spaces for private cars and 5 private car parking spaces for staff provided on site. Only private cars will be stored within the site. The operation hours are between 9:00 a.m. to 8:00 p.m. from Mondays to Saturdays and no operation on Sundays or public holidays. The Site is accessible via a track from Kam Tin Road. The site layout plan, layout plan of vehicle storage and parking spaces, landscape, drainage and fire service installations (FSIs) proposals submitted by the applicant are at **Drawings A-1 to A-5**.
- 1.4 A comparison of the major development parameters of the current application and the previous approved application is given in the following table:

	<b>Previous Approved Application No. A/YL-KTN/455 (a)</b>	<b>Current Application (b)</b>	<b>Differences (b) – (a)</b>
Applied Use	Temporary Open Storage of Private Cars for a Period of 3 Years	Same	-
Site Area (m <sup>2</sup> )	about 460	Same	-
No. of Structures	3	Same	-
Total Floor Area (m <sup>2</sup> )	254	238	-16 (-6.3%)
Building Height of Structures	3m - 6m / 1- 2 storeys	Same	-
No. of Private Cars Stored on site	18	14	-4 (-22.2%)
No. of Car Parking Spaces on site	0	5	+5

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with plans received on 6.9.2018 **(Appendix I)**
  - (b) Supplementary information (SI) received on 13.9.2018 **(Appendix Ia)**
  - (c) Further information (FI) received on 22.10.2018 with a revised layout plan, landscape and FSIs proposal in **(Appendix Ib)**

response to departmental comments

- (d) FI received on 26.10.2018 in response to departmental comments **(Appendix Ic)**
- (e) FI received on 16.11.2018 in response to departmental comments **(Appendix Id)**
- (f) FI received on 10.12.2018 with reduction of proposed private car storage spaces in response to departmental comments **(Appendix Ie)**
- (g) FI received on 24.1.2019 in response to departmental comments **(Appendix If)**

1.6 The application was originally scheduled for consideration by the Committee on 2.11.2018. Upon the request of the applicant, the Committee agreed to defer making a decision on the application on 2.11.2018 and 4.1.2019 respectively to allow time for the applicant to address the departmental comments. After the respective deferral requests, the applicant had submitted revised plans and photos in response to departments' comments.

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

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form and FI in **Appendices I and Ib**. They can be summarized as follows:

- (a) The company has been established for over 20 years. Various previous applications had been approved, including the latest application No. A/YL-KTN/455.
- (b) In view of the market depression, the Town Planning Board (the Board) is requested to allow the continual operation of the company so that the employees would not become unemployed.
- (c) Sufficient manoeuvring space will be provided on-site and traffic on public roads will not be affected. No towing is required for the vehicles stored within the Site.
- (d) The applicant failed to comply with the relevant approval condition for the previous planning approval due to negligence and undertakes to make effort in complying with the approval conditions for the current application.

## **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. 31A) by posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. 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 Board on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

#### 5. **Background**

The Site is subject to on-going planning enforcement action (No. E/YL-KTN/466) against an unauthorized development (UD) involving workshop use, storage use and parking of vehicles. Enforcement Notice was issued on 19.7.2018 to the concerned parties requiring discontinuation of the UD. The Site would be kept under close monitoring for further action, if necessary.

#### 6. **Previous Applications**

6.1 The Site was involved in seven previous Applications No. A/YL-KTN/33, 77, 128, 148, 160, 241 and 455 (**Plan A-1b**). All the previous applications were submitted by the same applicant as the current application. Except application No. A/YL-KTN/455 with the same site area, all applications covered a larger site area. Details of the applications are summarized in **Appendix III** and the location of the sites are shown on **Plan A-1b**.

6.2 Application No. A/YL-KTN/33 for public car park was approved with conditions on 20.6.1997 for 4 years mainly for the reasons that the proposed use could satisfy some of the parking demand prior to the implementation of the “Improvement to Kam Tin Road, Stage II” project; compatible and functional for the area; and there was no implementation programme for the open space.

6.3 Applications No. A/YL-KTN/77, 128, 160, 241 and 455 for temporary storage of private cars for a period of 12 months (application No. A/YL-KTN/77 only) or 3 years were approved with conditions by the Committee on 27.11.1998, 2.2.2001, 17.1.2003, 13.1.2006 and 2.1.2015 respectively mainly for the reasons that the development was not incompatible with the surrounding land uses abutting Kam Tin Road; no vehicle maintenance or repairing activities would be undertaken on-site; the development was in line with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Backup Uses’; no significant environmental nuisances would be generated; and approval conditions of previous applications were complied with. However, application No. A/YL-KTN/128 and 455 were revoked on 2.11.2001 and

13.2.2015 due to non-compliance with conditions on submission of landscaping and drainage proposals and provision of fire extinguisher(s) respectively.

- 6.4 Application No. A/YL-KTN/148 for temporary open storage of private cars and company cars maintenance for a period of 3 years was rejected by the Committee on 9.8.2002 on the grounds that the development did not comply with the Town Planning Board Guidelines on “Application for Open Storage and Port back-up Uses” in that residential dwellings in the vicinity would be susceptible to adverse environmental nuisances and there was insufficient information in the submission to demonstrate that the development would not have adverse environmental and drainage impacts on the surrounding areas.

## 7. Similar Applications

- 7.1 There were a total of 21 similar applications (No. A/YL-KTN/312, 318, 328, 332, 336, 345, 367, 374, 381, 389, 395, 456, 459, 462, 486, 491, 539, 580, 598, 601 and 635) for various temporary open storage uses within the same “R(D)” or “O” zone since the promulgation of the TPB PG-No. 13E on 17.10.2008. All the applications, except application No. A/YL-KTN/345, were approved with conditions by the Committee between 2008 and 2018. Details of the applications are summarized in **Appendix IV** and the locations of the sites are shown on **Plan A-1a**.
- 7.2 Applications No. A/YL-KTN/312, 328, 332, 336, 367, 381, 389, 395, 456, 462, 486, 491, 539, 580, 601 and 635 for various open storage uses involving 4 sites in the same “R(D)” zone were approved for similar reasons that the development on a temporary basis would not frustrate the long-term planning intention for the “R(D)” zone; not incompatible with the surrounding land uses; in line with the TPB-PG No. 13E in that previous approvals were granted and there were no adverse departmental comment or local objection or the departmental concern could be addressed by approval conditions. However, the planning permission for Application No. A/YL-KTN/486 was revoked on 18.12.2015 due to non-compliance with approval condition on provision of fire extinguisher(s).
- 7.3 Applications No. A/YL-KTN/318, 374, 459 and 598 for open storage of private cars and light goods vehicles uses on a site in the same “O” zone were approved for the reasons that the “O” zone was not on the priority list for development by Yuen Long District Council; the developments were considered not incompatible with the surrounding land uses; and in line with the TPB-PG No. 13E in that previous approvals were granted and there were no adverse departmental comment or local objection.
- 7.4 Application No. A/YL-KTN/345 for temporary open storage of private vehicles for sale was rejected by the Committee on 15.10.2010 mainly on the grounds that the application did not comply with the TPB-PG No. 13E in that no previous approval was granted and there were insufficient information to demonstrate that the developments would not cause adverse traffic, landscape

and drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.

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

8.1 The Site is:

- (a) fenced off and paved, and currently use for open storage of private cars and vehicle repair workshop without valid planning permission; and
- (b) accessible via a track from Kam Tin Road to the south.

8.2 The surrounding areas are predominantly rural in character mixed with residential dwellings/structures, open storage yards, parking of vehicles, petrol filling stations and vacant/unused land. Most of the open storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its immediate west is a residential dwelling/structure (less than 10m) and vacant/unused land. To its further west are open storage yards with one of them currently covered by valid planning permission under Application No. A/YL-KTN/598;
- (b) to its immediate north is vacant/unused land and a residential dwelling/structure (less than 10m). To its further north and northwest is a residential estate namely Season Monarch;
- (c) to its east and northeast across a local access road are a petrol filling station, open storage yards, parking of vehicles, residential structures/dwellings, a grave and vacant land; and
- (d) to its south across Kam Tin Road are a petrol filling station, the Shek Kong Barracks, a clinic, cultivated agricultural land and a residential structure/dwelling.

## **9. Planning Intentions**

9.1 The planning intention of the “O” zone is primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

9.2 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 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 Government Land (GL) and Old Schedule 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.
- (b) Lot No. 529 S.B in D.D. 109 is covered by Short Term Waiver (STW) No. 4125 to permit structures erected thereon for the purpose of “temporary open storage of private cars”.
- (c) The GL within the Site is covered by Short Term Tenancy (STT) No. 2847 to permit structures erected thereon for the purpose of “temporary open storage of private cars”.
- (d) The Site is accessible from Kam Tin Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (f) Should planning approval be given to the planning application, the STW and STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. The owner(s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above 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):

- (a) He has no comment on the application.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) His department does not and will not maintain any access connecting the Site and Kam Tin Road. The applicant should be responsible for his own access arrangement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Open Space Aspect**

#### 10.1.4 Comments of the Director of Leisure and Cultural Services (DLCS):

- (a) She has no in-principle objection to the application noting that the applied approval period is only three years.
- (b) The portion zoned "O" within the Site is not on the priority list for development agreed by the Yuen Long District Council. Her office has no plan to develop the Site into public open space at present.

### **Environment**

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

- (a) There was no environmental complaint received in the past three years. *However, in accordance with the latest "Code of Practice on Handling the Environmental Aspects of Temporary*



~~Uses and Open Storage Sites” (“COP”), he does not support the application as there are sensitive receivers, i.e. residential dwellings, located in the vicinity (the nearest one is less than 10m away to its north and west) (Plan A-2), and environmental nuisance is expected.~~

- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest ~~“COP”~~ **“Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”** issued by the EPD.

### **Landscape**

- 10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) She has no objection to the application from the landscape planning perspective.
- (b) The Site is the subject of previously approved applications. She had no objection to the last previous application (No. A/YL-KTN/455) from landscape planning perspective.
- (c) Compared the aerial photo of 2015 to latest photo of 2018, there is no significant change in the rural landscape character where the Site is located. The surrounding area comprises of residential houses, some temporary structures, open storage, car parks and some scattered tree groups. The Site with an access abuts Kam Tin Road. The applied use is considered not incompatible with the landscape setting in proximity.
- (d) According to the site visit conducted on 19.9.2018, the Site was fenced off and hard paved, and the applied use was in operation. There was no existing tree within the Site. No significant landscape impact is anticipated.

### **Nature Conservation**

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

Noting that the Site has been paved and has been used for similar purposes approved by the Committee in the past, he has no comment on the application from the nature conservation point of view.

### **Drainage**

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

- (a) He has no in-principle objection to the application from the public drainage point of view.
- (b) Should the application be approved, approval conditions on submission, implementation and maintenance of drainage proposal for the development should be included in the planning permission.

### **Fire Safety**

#### 10.1.9 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) The submitted FSIs proposal is considered acceptable to his department. The applicant should be advised that the installation/ maintenance/ modification/ repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation/ maintenance/ modification/ repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him. 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 requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) There is no record of approval by the Building Authority for the existing structures at the site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval

of the BD, they are unauthorized building works (UBW) under the BO and should not be designated for any use under application.

- (c) 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.
- (d) 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.
- (e) 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) Regulation respectively.
- (f) 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 Building (Planning) Regulation at the building plan submission stage.

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

10.1.11 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comment from the 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) Director of Electrical and Mechanical Services (DEMS);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD); and
- (d) Commissioner of Police (C of P).

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

On 14.9.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 5.10.2018, two

comments from a Yuen Long District Council member and an individual (**Appendices VI-1 to VI-2**) were received. Both commenters object to the application mainly on the grounds that the applied use continued to operate even the previous application was revoked in 2015; the revocation still stands if nothing has changed; and approval of the current application would tolerate failure of complying with conditions.

## **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 within these areas 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 application 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 private cars mainly in “O” zone (80.68%) with small portion in “R(D)” zone (19.32%). The development is considered not in line with the planning intentions of the “O” and “R(D)” zones. The “O” zone is primarily intended for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Nevertheless, DLCS has no objection to the application as the Site is not on the priority list for development by Yuen Long District Council and she has no plan to develop it into public open space at present. The “R(D)” zone is primarily intended 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. There is currently no known development programme at the Site. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intentions of the “O” and “R(D)” zones.

- 12.3 The development is considered not incompatible with the surrounding areas which are mixed with residential dwellings/structures, open storage yards, parking of vehicles, petrol filling stations and vacant/unused land.

- 12.4 The application is considered generally in line with TPB PG-No.13E in that the Site is the subject of previous planning approvals for the same applied use

(Applications No. A/YL-KTN/77, 128, 160, 241 and 455). Relevant departments consulted, except DEP, have no adverse comment on the application. Compared with the last approved application (No. A/YL-KTN/455), the current application has the same site area and similar layout. As previous approvals have been granted and there is no major change in the planning circumstances since the last planning approval, sympathetic consideration could be given to the current application.

- 12.5 ~~While DEP does not support the application as there are residential dwellings/structures less than 10m away to the north and west (Plan A-2) and environmental nuisance is expected, there was no environmental complaint received by DEP in the past three years. Also, the Site abuts Kam Tin Road and vehicular access does not need to pass through residential dwellings/structures. To address the concern of the DEP on the possible environmental nuisance,~~ **Relevant government departments consulted including DEP, C for T, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance,** approval conditions restricting the operation hours, types of vehicles and prohibiting workshop-related activities are recommended in paragraphs 13.2 (a) to (d) below. 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 relevant mitigation measures and requirements as set out in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. 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) and (g) to (k).
- 12.6 There are 21 similar applications for various temporary open storage uses within the same “O” and “R(D)” zones. 20 of them were approved with conditions as mentioned in paragraph 6 above. An application was rejected by the Committee in 2010 mainly on the grounds that it did not comply with TPB PG-No.13E in that there was no previous approval for open storage use granted at the Site (**Plan A-1**).
- 12.7 The last approved application No. A/YL-KTN/455 for the same applied use submitted by the same applicant of the current application was revoked on 13.2.2015 due to non-compliance with approval conditions in relation to the provision of fire extinguisher(s). The applicant has submitted drainage, landscape and FSIs proposals in the current application, and stated that effort would be made to comply with the approval conditions. Concerned departments have no adverse comments on the application and the FSIs proposal is considered acceptable by D of FS. Shorter compliance periods are recommended to monitor the progress of compliance of approval conditions should the Committee decide to approve the current application. Moreover, the applicant would be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.8 Two public comments objecting the application were received during the statutory publication period mainly on the grounds that the previous planning application was revoked. In this regard, shorter compliance periods are recommended to monitor the progress of compliance of approval conditions

should the Committee decide to approve the current application. The planning considerations and assessments as stated above are also relevant.

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

13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department considers that the temporary open storage of private cars 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 8.3.2022. The following conditions of approval with shorter compliance period and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) no operation between 8:00 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 boundary fencing shall be maintained at all times during the planning approval period;
- (g) the submission of drainage proposal 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 8.6.2019;
- (h) in relation to (g) above, the implementation of the drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 8.9.2019;
- (i) the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;

- (j) 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 19.4.2019;
- (k) the implementation of the accepted 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 8.9.2019;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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;
- (m) if any of the above planning conditions (g), (h), (j) or (k) 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
- (n) 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 at **Appendix VII**.

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

The development is not in line with the planning intention of the "O" and "R(D)" zones. The planning intention of the "O" zone is primarily for the provision of outdoor open-air public space of active and/or passive recreational uses serving the needs of local residents as well as the general public. 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. No strong planning justification has been given in the submission for a departure from the planning intentions, 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**

<b>Appendix I</b>	Application form received on 6.9.2018
<b>Appendix Ia</b>	SI received on 13.9.2018
<b>Appendix Ib</b>	FI received on 22.10.2018 with a revised layout plan, landscape and FSIs proposal in response to departmental comments
<b>Appendix Ic</b>	FI received on 26.10.2018 in response to departmental comments
<b>Appendix Id</b>	FI received on 16.11.2018 in response to departmental comments
<b>Appendix Ie</b>	FI received on 10.12.2018 with reduction of proposed private car storage spaces in response to departmental comments
<b>Appendix If</b>	FI received on 24.1.2019 in response to departmental comments
<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 “O” and / or “R(D)” zones on the Kam Tin North OZP
<b>Appendix V</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendices VI-1 &amp; VI-2</b>	Public comments received during the statutory publication period
<b>Appendix VII</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Layout plan of vehicle storage and parking spaces



<b>Drawing A-3</b>	Landscape Proposal
<b>Drawing A-4</b>	Drainage Proposal
<b>Drawing A-5</b>	FSIs Proposal
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2019**