

RNTPC Paper No. A/YL-PH/845
For Consideration by
the Rural and New Town
Planning Committee
on 10.7.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/845

- Applicant** : 鄧力旗 represented by Goldrich Planners & Surveyors Limited
- Site** : Lots 179 S.D, S.F, S.G and S.I (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 1,084m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Container Vehicle Repair Yard and Warehouse for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary container vehicle repair yard and warehouse for a period of 3 years. According to the Notes for “OS” zone, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 1 use which is always permitted, while ‘Container Vehicle Repair Yard’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The northern part of the Site is subject to a previous application for open storage use which was approved with conditions by the Rural and New Town Planning Committee (the Committee) in 1998. The Site is currently vacant (**Plans A-2 to A-4**).
- 1.2 According to the applicant, the Site will be occupied by a one-storey (12m) temporary structure with a total floor area of about 1,084m² for container vehicle repair yard and storage of vehicle parts. There will be 3 repair spaces for

container vehicle (tractor head only). A parking space will be provided within the Site for medium goods vehicle¹ and another for private car. The operation hours are from 7:00am to 7:00pm Monday to Saturday. There will be no operation on Sunday and public holiday. The Site is directly accessible to / from Fan Kam Road. The layout plan and drainage proposal submitted by the applicant are at **Drawings A-1 and A-2**.

- 1.3 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with supplementary statement and **(Appendix I)** plans received on 15.5.2020
 - (b) Supplementary Information received on 19.5.2020 **(Appendix Ia)**
 - (c) Further Information (FI) received on 2.6.2020 in **(Appendix Ib)** response to departmental comments
(exempted from publication requirement)

2. Justifications from the Applicant

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

- (a) The proposed development will provide tractor head repairing services for container vehicle drivers, and create job opportunities for nearby residents.
- (b) The proposed development is compatible with the open storage and workshops in the surrounding area, and will not induce adverse visual, landscape, drainage and traffic impacts.

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

The applicant is not the “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 registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

¹ Under the Road Traffic Ordinance (Cap. 374), “medium goods vehicle” means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes, and “heavy goods vehicle” means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No.13F) promulgated by the Board on 27.3.2020 are relevant to this application. The Site falls within Category 1 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Application**

The northern part of the Site is the subject of a previous application (No. A/YL-PH/238) for open storage of vehicle parts and vehicles prior to sale. It was approved with conditions by the Committee on 13.11.1998 mainly on the considerations that the development was in line with the planning intention of the “OS” zone; the development complies with the “Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses”; and relevant Government departments consulted had no adverse comment on the application. Details of the previous application are summarized in **Appendix III** and its location is shown on **Plan A-1**.

7. **Similar Application**

There is no similar application for container vehicle repair yard within the same “OS” zone since the promulgation of the then TPB PG-No. 13E on 17.10.2008.

8. **The Site and Its Surrounding Areas (Plans A-2 to A-4)**

8.1 The Site is:

- (a) paved and vacant; and
- (b) directly accessible from Fan Kam Road.

8.2 The surrounding area is rural in character intermixed with open storage yards, residential structure / dwelling and vacant / unused land. Some of the open storage yards and parking of vehicles in the nearby “Residential (Group D)” (“R(D)”) and “Village Type Development” (“V”) zones are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to its north, south and west in the “OS” zone are open storage yards and vacant / unused land; and
- (b) to the east across Fan Kam Road in the “R(D)” and “V” zones are open storage yards, parking of vehicles, residential structures / dwellings and unused land.

9. Planning Intention

The planning intention of the “OS” zone is intended primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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 Lot 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) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) 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 rent 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 from traffic engineering perspective.
- (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.

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

- (a) If the proposed run-in / out is agreed by Transport Department, the applicant should provide the run-in/out at Fan Kam Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”, she does not support the application as there are sensitive receivers, i.e. residential structures / dwellings located to the east of the Site (nearest 60m) (**Plan A-2**), and the proposed use involves the use of heavy vehicles², thus environmental nuisance is expected.

² Under the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, "heavy vehicles" include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes (i.e. both medium and heavy goods vehicles defined under the Road Traffic Ordinance as set out in footnote 1).

- (c) 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.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission of a revised drainage proposal, and implementation and maintenance of the revised drainage proposal for the development should be included.
- (c) His detailed comments on the submitted drainage proposal are included in **Appendix IV**.

Fire Safety

10.1.6 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.
- (c) 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

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

- (a) If structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the BO and should not be designated for any proposed use under the application.
- (b) If UBW are erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.
- (c) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (d) 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.
- (e) The Site does not abut on a specified street of not less than 4.5m wide and 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

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

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

10.2 The following Government departments have no objection to / no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Commissioner of Police; and
- (d) Director of Electrical and Mechanical Services.

11. Public Comment Received During Statutory Publication Period

On 22.5.2020, the application was published for public inspection. During the three-week publication period, no public comment was received.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary container vehicle repair yard and warehouse for a period of 3 years at a site zoned “OS”. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. The proposed warehouse use for storage of vehicle parts is always permitted within the “OS” zone. While the proposed container vehicle repair yard is not entirely in line with the planning intention of the “OS” zone, it is not incompatible with the intended uses in the zone. It is considered that the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “OS” zone.

12.2 The proposed development is considered not incompatible with the surrounding land uses, which is rural in character intermixed with open storage yards, residential structure / dwelling and vacant / unused land.

12.3 According to TPB PG-No. 13F, the Site falls within Category 1 area. The following Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

12.4 The application is generally in line with the TPB PG-No. 13F in that there is no local objection and there is generally no adverse comment from concerned departments, except for DEP. DEP does not support the application as there are sensitive receivers i.e. residential structures / dwellings to the east of the Site

(nearest 60m), and the proposed use involves the use of vehicles exceeding 5.5 tonnes whereby environmental nuisance is expected. Nevertheless, the Site is separated from the residential dwellings by Fan Kam Road and “R(D)” zone. To address DEP’s concern and to mitigate any potential environmental impacts, approval conditions restricting the operation hours are recommended in paragraphs 13.2(a) and (b) below. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses’. The technical requirements of C for T, Director of Highways (D of Hy), CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraphs 13.2(c) to (i) below.

- 12.5 The northern part of the Site is subject to a previous application (No. A/YL-PH/238) for open storage of vehicle parts and vehicles prior to sale, which was approved with conditions by the Committee in 1998. The current application is for a different use.
- 12.6 No public comment was received during the statutory publication period.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, the Planning Department has no objection to the proposed temporary container vehicle repair yard and warehouse 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 10.7.2023. 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 7:00 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the submission of a run-in/out proposal at Fan Kam Road within **6** months from the date of planning approval to the satisfaction of the Director of

Highways and the Commissioner for Transport or of the Town Planning Board by 10.1.2021;

- (e) in relation to (d) above, the implementation of the run-in/out proposal at Fan Kam Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 10.4.2021;
- (f) the submission of a revised 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 10.1.2021;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.4.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of 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 10.1.2021;
- (j) in relation to (i) above, the implementation of fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 10.4.2021;
- (k) if any of the above planning condition (a), (b), (c) 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
- (l) if any of the above planning condition (d), (e), (f), (g), (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.

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 proposed development is not in line with the planning intention of the “OS” zone which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application Form with supplementary statement and plans received on 15.5.2020
Appendix Ia	SI received on 19.5.2020
Appendix Ib	FI received on 2.6.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous application of the Site
Appendix IV	Detailed comments from the CE/MN of DSD
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Drainage proposal
Plan A-1	Location Plan

Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JULY 2020**