

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

APPLICATION NO. A/YL-PH/855

- Applicant** : Mr. Kwok Hung Kau and Ms. Law Yuk Fong
- Site** : Lots 100 RP, 101 S.A&B RP and 101 S.C RP in D.D. 111, A Kung Tin, Fan Kam Road, Pat Heung, Yuen Long
- Site Area** : About 2,352 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Renewal of Planning Approval for Temporary Open Storage of Building Materials and Vehicles for Sale for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek renewal of planning permission to use the application site (the Site) for temporary open storage of building materials and vehicles for sale for a period of 3 years. The Site is zoned “R(D)” on the Pat Heung OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of 3 years requires permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of ten previous applications. The last application (No. A/YL-PH/757) submitted by the same applicants for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) on 27.10.2017. All the approval conditions have been complied with and the planning permission is valid until 14.11.2020.
- 1.3 The Site is separated into two portions by a local track in the middle (**Plan A-1**). According to the applicants, the northern portion is occupied by three one-storey

structures with floor area of about 223m² (not more than 5.7m high) for office and storeroom uses whereas the southern portion is occupied by three one-storey structures with floor area of about 89m² (not more than 5m high) for storeroom and meter room uses. Four parking spaces, including 2 for private cars, 1 for light goods vehicle (LGV) and 1 for heavy goods vehicle (HGV), as well as three loading and unloading bays, including 1 for LGVs and 2 for HGVs are proposed on-site. Vehicles not exceeding 30 tonnes will be stored within the Site. Operation hours of the Site are between 8:00a.m. to 6:00p.m. Mondays to Saturdays. There is no operation on Sundays and public holidays. The Site is accessible from Fan Kam Road via a local track. The site layout plans submitted by the applicants are at **Drawings A-1 to A-2**.

1.4 Compared with the last approved application No. A/YL-PH/757, the current application is the same in terms of applied use, site area/boundary, number of structures and total floor area. However, the number of parking and loading and unloading spaces was not specified in the approved application.

1.5 In support of the application, the applicants have submitted:

(a) Application form with drawings received on 7.9.2020 **(Appendix I)**

(b) Further Information (FI) dated 16.10.2020 in response to **(Appendix Ia)** departmental comments
(exempted from publication requirement)

(c) FI dated 28.10.2020 in response to departmental comments **(Appendix Ib)**
(exempted from publication requirement)

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in **Appendix I**, and are briefly summarized as follows:

The current application is the same as the last application. The drainage, landscape and fire service facilities on-site are well-maintained in the past years. The applicants will continue to maintain the Site in a clean and tidy condition and comply with approval conditions and other relevant regulations.

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

The applicants are the sole “current land owner”. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

4.1 Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No.34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (a) whether there has been any material change in planning circumstances since the previous temporary approval was granted (such as a change in the planning policy/land-use zoning for the area) or a change in the land uses of the surrounding areas;
 - (b) whether there are any adverse planning implications arising from the renewal of the planning approval (such as pre-emption of planned permanent development);
 - (c) whether the planning conditions under previous approval have been complied with to the satisfaction of relevant Government departments within the specified time limits;
 - (d) whether the approval period sought is reasonable; and
 - (e) any other relevant considerations.
- 4.2 The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 is relevant to the application. The Site falls within the Category 2 areas under the TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

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

6. Previous Applications

- 6.1 The Site was the subject of ten previous applications for New Territories Exempted Houses (NTEHs) and temporary open storage of building materials (with or without vehicles for sale) for 12 months or 3 years. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/12 covering part of the southern portion of the Site for 20 NTEHs was rejected by the Committee in 1995 on the grounds that the proposed development was not in line with the planning intention of the “R(D)” zone; the development intensity of the proposed development was excessive; no noise and visual mitigation measures were included in the submission; the proposed development encroached on the waterworks reserve and the proposed vehicular access was in conflict with the existing pumping house.
- 6.3 The other nine applications for temporary open storage were all approved with conditions by the Committee between 1998 and 2017 on similar reasons that the application would not frustrate the long-term planning intention of the “R(D)” zone; the development was not incompatible with the surrounding areas; the application complied with the TPB Guidelines for “Application for Open Storage and Port Back-up Uses”; relevant Government departments consulted generally

had no adverse comments on the application; and the environmental concern could be addressed by approval conditions. However, planning permission for Application No. A/YL-PH/644 was revoked in 2014 due to non-compliance with approval conditions. For the last application (No. A/YL-PH/757), all the approval conditions have been complied with and the permission is valid until 14.11.2020.

7. Similar Applications

There are eight similar applications for temporary open storage use at two sites within the same “R(D)” zone since the promulgation of TPB PG-No. 13E on 17.10.2008. They were all approved with conditions by the Committee between 2009 and 2016 on similar reasons as stated in paragraph 6.3. However, planning permissions for Application Nos. A/YL-PH/692 and 728 were revoked due to non-compliance with approval conditions. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) separated into two portions by a local track;
- (b) paved and used for the applied use with valid planning permission; and
- (c) accessible to Fan Kam Road via a local track.

8.2 The surrounding area is rural in character predominated by open storage yards, plant nurseries, residential dwellings/structures and unused land:

- (a) to its immediate north is open storage of vehicles with planning permission. To its immediate east is a streamcourse. To its northeast are plant nursery and residential dwellings/structures (nearest about 40m away);
- (b) to its southeast within the “Village Type Development” zone are open storage/storage yards, plant nursery, residential dwellings/structures and vacant/unused land;
- (c) to its south is unused land. To it further south is a piece of unused land with planning permission for houses development (No. A/YL-PH/829); and
- (d) to its immediate west is unused land. To its further west across Fan Kam Road is an area zoned “Green Belt” occupied by open storage yard and vacant/unused land.

9. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

10. Comments from Relevant Government Departments

10.1 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 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) Within the Site, part of the private lots are covered by the following Short Term Waivers (STWs):

STW No.	Lot No.	Permitted Use
STW2484	100 RP in D.D.111	Storage of Building Materials and Ancillary Office
STW2799	101 S.A & B RP in D.D.111	Open Storage of Building Materials and Uses Ancillary

- (c) Should the 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 where appropriate, and the lot 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, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application 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 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.
- (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/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (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) According to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application since there are sensitive receivers in the vicinity (the nearest residential dwellings about 40m to the northeast of the Site) and the applied use involves the use of heavy vehicles, environmental nuisance is expected.
- (a) Should the application be approved, the applicants are 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.
- (b) There is no environmental complaint concerning the Site received by DEP in the past three years.

Landscape

10.1.5 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 landscape planning perspective.
- (b) Based on the aerial photo taken in October 2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, open storages and farmlands. The applied use is considered not incompatible with the surrounding environment.
- (c) With reference to the site visit in September 2020, the Site is paved and in operation as open storage. Existing landscape plantings are in acceptable condition. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the development is not anticipated.
- (d) Should the application be approved, approval condition on maintenance of the existing trees and landscape plantings within the Site in healthy condition at all times during the approval period should be included.

Nature Conservation

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

- (a) He has no objection to the application from nature conservation point of view noting that the applicants seek renewal of the previously approved application and the Site has been paved.
- (b) The Site is immediately adjacent to a watercourse to the east (**Plan A-2**). Should the application be approved, the applicants shall be advised to adopt necessary measures to avoid polluting the watercourse during operation.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) He noted that the applicants would maintain the same drainage facilities as those implemented under the previous application No.

A/YL-PH/757.

- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-PH/757 and the submission of a record of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in-principle 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 applicants are 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. The good practice guidelines for open storage (**Appendix V**) should be adhered to.
- (c) Moreover, having considered the nature of the open storage, an approval condition requiring the provision of fire extinguisher(s) within 6 weeks from the date of planning approval should be included in the planning permission. To address this approval condition, the applicants should be advised to submit a valid fire certificate (FS 251) to his department for approval.
- (d) The applicants are reminded that if the 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.

Water Supply

10.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) Based on the site layout plan (**Drawing A-1**), the western portion of storeroom (B), proposed fence and gate at northern portion of the Site would encroach onto the waterworks reserve (WWR) (**Plan A-2**).
- (c) No structure shall be erected over the WWR and such area shall not be used for storage purpose.

- (d) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the WWR with necessary plant and vehicles for the purpose of construction, inspection, operation, maintenance and repair works. All other services across, through or under WWR are required to seek authorization from the Water Authority.
- (e) Government shall not be liable to any damage whatsoever and howsoever cause arising from burst or leakages of the public water mains within and in close vicinity of the Site.
- (f) Should the application be approved, approval conditions on the submission of a report on the condition of the existing water mains underneath the ingress and egress of the Site and the implementation of mitigation measures to avoid impact on the existing water mains to the satisfaction of the Director of Water Supplies or of the Board shall be included.

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 structures existing at the Site and BD is not in a position to offer comments on their suitability for the applied use.
- (b) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (c) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the BO and should not be designated for any proposed use under the application.
- (d) 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.
- (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) Regulations (B(P)R) 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 B(P)R 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):

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

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

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

11. Public Comments Received During the Statutory Publication Period

On 15.9.2020, the application was published for public inspection. During the three-week statutory publication period, two comments (**Appendices VI-1 and VI-2**) were received from individuals. They object to the application mainly on the grounds that the applied use would generate more traffic and adversely affect the safety and quality of life of the residents; there are residences near the Site and it could be used for purposes in line with the "R(D)" zone such as transitional housing; and the plan for this area and the progress in relocating brownfield operations to high-rise, custom built industrial estates should be considered.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning permission for temporary open storage of building materials and vehicles for sale for a period of 3 years within the "R(D)" zone. 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, and for low-rise, low-density residential developments subject to planning permission from the Board. The applied use is not in line with the planning intention of the "R(D)" zone. Nevertheless, there is no known programme for long-term development at the Site. 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.

12.2 The applied use is considered not incompatible with the surrounding area which is rural in character predominated by open storage yards, residential

dwelling/structures, plant nurseries and vacant/unused land.

- 12.3 The Site falls within Category 2 areas under the TPB PG No.13F. The following considerations in the guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departmental and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is generally in line with the TPB PG-No. 13F and 34C in that all approval conditions of the last approved application (No. A/YL-PH/757) have been complied with. The current application submitted by the same applicants is the same as the last application in terms of applied use, site boundary and area, number of structure and total floor area. All the departments consulted, except DEP, have no adverse comment on the application. While there is generally no major change in planning circumstance since the last approval, planning approval for development of 3 houses has been granted by the Committee on 9.10.2020 at a piece of vacant land to the further south of the Site (Application No. A/YL-PH/829) (**Plan A-2**). Nevertheless, the anticipated completion year of the subject houses development is 2025. As such, sympathetic consideration could be given to the current application for temporary approval of 3 years until 2023.
- 12.5 DEP does not support the application since there are sensitive receivers in the vicinity (nearest about 40m to the northeast) and the applied use involves the use of heavy vehicles, thus environmental nuisance is expected. However, there was no environmental complaint concerning the Site received by the DEP in the past three years. Also, the Site has direct access to Fan Kam Road without passing through residential dwelling/structures. To minimize the possible environmental nuisance generated by the development, approval conditions on restricting the operating hours and prohibiting workshop activities on-site are recommended in paragraph 13.2 (a) to (c) below. The applicants are also advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, UD&L of PlanD, CE/MN of DSD, D of FS and CE/C of WSD could be addressed by approval conditions in paragraphs 13.2 (e) to (m).
- 12.6 The Site is the subject of nine approved previous applications for open storage use between 1998 and 2017. Besides, there are eight similar applications for temporary open storage uses within the same “R(D)” zone approved with conditions by the Committee between 2009 and 2019. Approval of this application is in line with the Committee’s previous decisions.
- 12.7 Two public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of building materials and vehicles 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, and be renewed from 15.11.2020 to 14.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 8:00a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, 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 at the Site at any time during the planning approval period;
- (d) the existing boundary fencing at the Site shall be maintained at all times 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 trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (g) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 15.2.2021;
- (i) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) within **6** weeks from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 27.12.2020;
- (j) the submission of a fire service installations proposal within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.5.2021;

- (k) in relation to (j) above, the implementation of the fire service installations proposal within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 15.8.2021;
- (l) the submission of a report on the condition of the existing water mains underneath the ingress and egress of the Site within **6** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.5.2021;
- (m) in relation to (l) above, the implementation of mitigation measures to avoid impact on the existing water mains within **9** months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 15.8.2021;
- (n) if any of the above planning condition (a), (b), (c), (d), (e), (f) or (g) 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
- (o) if any of the above planning condition (h), (i), (j), (k), (l) or (m) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

[The above planning conditions are largely the same as those under planning permission of previous Application No. A/YL-PH/757.]

- 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 "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. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory clauses

The recommended advisory clauses are attached at **Appendix VII**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 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 drawings received on 7.9.2020
Appendix Ia	FI dated 16.10.2020
Appendix Ib	FI dated 28.10.2020
Appendix II	Relevant Extracts of TPB PG-No.13F
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the same “R(D)” zone
Appendix V	Good Practice Guidelines for Open Storage Sites
Appendices VI-1 and VI-2	Public comments received during the statutory publication period
Appendix VII	Advisory clauses
Drawing A-1	Layout Plan
Drawing A-2	Layout Plan showing parking spaces and loading/unloading bays
Plan A-1	Location Plan with previous and similar applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**