

RNTPC Paper No. A/YL-PH/873  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 5.2.2021

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

**APPLICATION NO. A/YL-PH/873**

<b><u>Applicant</u></b>	: R-riches Property Consultants Limited
<b><u>Site</u></b>	: Lot 1697 RP in D.D. 111, Pat Heung, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 1,677m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Agriculture” (“AGR”)
<b><u>Application</u></b>	: Proposed Temporary Open Storage of Construction Machinery 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 open storage of construction machinery for a period of 3 years. The Site falls within an area zoned “AGR” on the Pat Heung OZP and the applied use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning 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 largely vacant with some vacant temporary structures (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the proposed use involves a one-storey (3.5m) structure with a total floor area of about 54m<sup>2</sup> for site office. Two light goods vehicle loading / unloading spaces will be provided on-site. No vehicles over 5.5 tonnes will be allowed to enter or exit the Site. The operation hours are from

9:00am to 6:00pm Monday to Saturday. There will be no operation on Sunday and public holiday. The Site is accessible from Kam Tin Road via Leung Shing Road and a local access. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with plans received on 8.12.2020 (**Appendix I**)
  - (b) Further Information (FI) received on 27.1.2021 in (**Appendix Ia**) 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 **Appendices I and Ia**. They can be summarized as follows:

- (a) The development is temporary in nature, and thus will not frustrate the long-term planning intention of the “AGR” zone. The proposed open storage will be used to store elevated platform for construction (scissor platform).
- (b) The Site falls within Category 2 areas under the Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F). As such, the Site is considered suitable for open storage and port back-up uses.
- (c) The applicant will follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ issued by the Director of Environmental Protection (DEP) to minimize all possible environmental impact. The proposed development will not result in significant adverse traffic, environmental, landscape and drainage impacts.

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

The applicant is not the “current land owner” of the Site 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.

#### 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 2 areas under TPB PG-No. 13F<sup>1</sup>. The relevant extract of the Guidelines is attached at **Appendix II**.

#### 5. **Background**

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

#### 6. **Previous Application**

The Site is not subject to any previous application.

#### 7. **Similar Applications**

7.1 There were 28 similar applications for various open storage uses for a period of 3 years within the same “AGR” zone on the OZP since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Twenty two cases were approved and six cases were rejected. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

##### Twenty Two Approved Applications

7.2 Applications No. A/YL-PH/608, 616, 666, 686, 701, 733, 756, 803 and 805 on two sites were approved with conditions by the Committee between 2011 and 2019. Applications No. A/YL-PH/608 and 616 were approved for the reasons that the original site of the applied use had been affected by the Hong Kong Section of the Guangzhou–Shenzhen–Hong Kong Express Rail Link (XRL) project and the applicant had made effort but no other suitable site was identified; the nearby areas were zoned “Open Storage” (“OS”) and the relevant departments generally had no objection to the application or the concern could be addressed by approval conditions. The subsequent applications at these two sites were approved for similar reasons that the applications generally complied with TPB PG-No. 13E in that previous approval was given.

7.3 The other thirteen applications on three sites were approved with conditions by the Committee between 2010 and 2021 mainly for similar reasons that the development would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses; it complied with the TPB PG-No. 13E / 13F in that there were previous planning

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<sup>1</sup> The Site and its adjoining area was under Category 3 area in the then TPB PG-No.13E.

approvals at the site; relevant departments generally had no objection to the application; and departmental comments could be addressed by approval conditions.

#### Six Rejected Applications

- 7.4 Applications No. A/YL-PH/645, 678, and 687 at about the same site, A/YL-PH/698 (partly on “Village Type Development” (“V”) zone), and A/YL-PH/752 for various temporary open storage uses were rejected by the Committee between 2012 and 2017 on similar grounds that the proposed development was not in line with the planning intention of the “AGR” zone; the application did not comply with the TPB PG-No.13E in that the proposed development was not compatible with the surrounding land uses, there was no previous approval granted at the site, and there were adverse departmental comments on the application; the applicant failed to demonstrate that the proposed development would not generate adverse environmental/drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.
- 7.5 Application No. A/YL-PH/770 for temporary open storage of private cars and lorries was rejected by the Committee in 2018 mainly on the grounds that the previous planning permissions granted were revoked due to non-compliance with approval conditions, and approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses, thus nullifying statutory planning control.

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

- 8.1 The Site is:
- (a) partly paved and currently vacant with some vacant temporary structures; and
  - (b) accessible from Kam Tin Road via Leung Shing Road and a local access.
- 8.2 The surrounding area is rural in character intermixed with open storage / storage yards, residential structures / dwellings, the stabling sidings of the XRL and vacant / unused land:
- (a) to the north, east and south are open storage / storage yards, residential structures / dwellings and vacant / unused land; and
  - (b) to the west are vacant land, Leung Shing Road and the stabling sidings of the XRL.

## 9. **Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land / farm / fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

## 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 an Old Schedule 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. 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 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.

- (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, Highway Department (CHE/NTW, HyD):

- (a) Leung Shing Road is not maintained by HyD.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (c) 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) 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.

**Landscape**

10.1.5 Comments of the Chief Town Planner / Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Referring to the aerial photo dated 18.2.2020, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures and abandoned farmlands. Village

houses are concentrated within the “V” zone to the east of the Site. Noting that a similar planning application (No. A/YL-PH/865) within the same “AGR” zone in proximity to the Site was approved, the proposed development is not entirely incompatible with the surrounding landscape setting. The Site is vacant and covered with self-seeding vegetation. Two temporary structures are found within the Site. No existing tree is found within the Site. Significant adverse landscape impact arising from the proposed development to the landscape resources within the Site is not anticipated.

### **Agriculture and Nature Conservation**

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

- (a) The Site falls within the “AGR” zone and is currently vacant. Agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.
- (b) Noting the Site is vacant, he has no comment on the application from nature conservation point of view.

### **Drainage**

#### 10.1.7 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 drainage proposal, and implementation and maintenance of the drainage proposal for the development should be included.

### **Fire Safety**

#### 10.1.8 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. Good practice guidelines for open storage should be adhered to (**Appendix IV**).
- (c) Having considered the nature of the open storage, the approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to his satisfaction shall be added. To address this condition, the applicant should be advised to submit a valid fire certificate (FS 251) for his 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**

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

- (a) As there is no record of approval granted by the Building Authority (BA) 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) Before any new building works (including containers / open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise, they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in



accordance with the Buildings Ordinance (BO).

- (c) His detailed comments on UBW, provision of access, temporary or licensed structures are at **Appendix VI**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

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

10.1.10 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 comment on the application:

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

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

On 18.12.2020, the application was published for public inspection. During the three-week statutory publication period, three public comments from Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and an individual were received (**Appendices V-1 to V-3**). All the three public comments object to the application mainly on the grounds that the development is not in line with the planning intention of the "AGR" zone; the proposed use is not compatible with the residential structures nearby and will bring adverse environmental impact; there are rejected similar applications nearby; further brownfield activities should not be encouraged as further environmental degradation is not desirable; the site condition and current operation should be considered; and approval of the application would set an undesirable precedent for other applications in the same "AGR" zone.

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

12.1 The application is for proposed temporary open storage of construction machinery for a period of 3 years at the "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural

land / farm / fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Although the applied use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application as the Site possesses potential for agricultural rehabilitation, it is considered that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “AGR” zone.

12.2 The development is considered not incompatible with the surrounding land uses which is rural in character intermixed with residential structures / dwellings, the stabling sidings of the XRL and vacant / unused land.

12.3 According to TPB PG-No. 13F, the Site falls within Category 2 area. 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 departments 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 in that there is generally no adverse comment from concerned departments, including C for T, DEP, CE/MN of DSD and D of FS (except DAFC). To minimize any potential environmental nuisance, approval conditions restricting the operation hours and vehicle type and prohibiting workshop activities are recommended in paragraphs 13.2(a) to (d) below. 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, CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraphs 13.2(e) to (k) below.

12.5 The Site is not covered by any previous application. There are twenty eight similar applications within the same “AGR” zone for various open storage uses, with twenty two of them approved and six rejected. The latter were rejected mainly on the grounds that they did not comply with the then TPB PG-No.13E or involved repeated non-compliance of approval conditions as detailed in paragraph 7 above.

12.6 Three public comments were received during the statutory publication period objecting to the application as stated in paragraph 11 above. In this regard, relevant government departments’ comments and planning considerations and assessments as set out 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, the Planning Department considers that the proposed temporary open storage of construction machinery 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 5.2.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference.

#### Approval Conditions

- (a) no operation between 6:00 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 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;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on 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 submission of a 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 5.8.2021;
- (g) in relation to (f) above, the implementation of the 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 5.11.2021;
- (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 provision of fire extinguisher(s) with a valid fire certificate (FS251) 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 19.3.2021;

- (j) the submission of a 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 5.8.2021;
- (k) in relation to (j) above, the implementation of the 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 5.11.2021;
- (l) if any of the above planning condition (a), (b), (c), (d), (e) 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;
- (m) if any of the above planning condition (f), (g), (i), (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 the 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:

the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land / farm / fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 applicant.

## 15. Attachments

<b>Appendix I</b>	Application Form with plans received on 8.12.2020
<b>Appendix Ia</b>	FI received on 27.1.2021
<b>Appendix II</b>	Relevant extract of TPB PG-No. 13F
<b>Appendix III</b>	Similar applications within the same “AGR” zone on the Pat Heung OZP
<b>Appendix IV</b>	Good practice guidelines for open storage sites
<b>Appendices V-1 to V-3</b>	Public comments received during the statutory publication period
<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2021**