

RNTPC Paper No. A/YL-PH/869
For Consideration by
the Rural and New Town
Planning Committee
on 22.1.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/869

- Applicant** : Mr. TANG Shing-chun represented by R-riches Property Consultants Limited
- Site** : Lot 55 (Part) in D.D. 108, Pat Heung, Yuen Long
- Site Area** : About 2,650m²
- 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 maximum building height of 2-storeys (6m)]
- Application** : 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 “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 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 currently paved and vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves five previous applications. The latest application No. A/YL-PH/691 for proposed temporary open storage of second hand private cars

and trucks (30 tonnes) submitted by an applicant different from the current application was rejected by the Rural and New Town Planning Committee (the Committee) in 2014.

- 1.3 According to the applicant, the proposed development involves a two-storey (7m) temporary structure with a total floor area of about 216m² for site office and washroom. One parking space for private cars and two loading / unloading spaces for light goods vehicle will be provided on-site. No vehicles over 5.5 tonnes will be allowed to enter or exit the Site. The operation hours will be from 9:00am to 6:00pm Monday to Saturday. There will be no operation on Sunday and public holiday. The Site is accessible to / from Fan Kam Road via a local access. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the last rejected application (No. A/YL-PH/691), the current application involves a different type of open storage use, with a smaller site area (-107m² / -4%) and floor area (-29m² / -12%), and does not involve the use of heavy vehicles.
- 1.5 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with plans received on 23.11.2020 (**Appendix I**)
 - (b) Further Information (FI) received on 13.1.2021 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 application is on a temporary basis and will not frustrate the long-term planning intention. The Site falls within a Category 2 area under the Town Planning Board Planning Guidelines No. 13F, and is considered suitable for open storage and port back-up uses.
- (b) The proposed development will not result in adverse traffic, environmental, landscape and drainage impacts on the surrounding area. The applicant will follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the Environmental Protection Department (EPD) to minimize all possible environmental impacts.
- (c) As the proposed development only involves the open storage of elevated work platforms, no vehicles over 5.5 tonnes will be involved. There will be no

workshop activity at the Site. As such, there will be no nuisance to the surrounding area and no contamination to the soil / ground.

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.

4. Town Planning Board Guidelines

- 4.1 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. The relevant extract of the Guidelines is attached at **Appendix II**.
- 4.2 The Site previously fell within Category 3 areas under the then TPB PG-No. 13E. The Site and its adjoining area was reclassified to Category 2 areas under TPB PG-No. 13F, taking into account the “Study on Existing Profile and Operations of Brownfield Sites in the New Territories - Feasibility” completed by the Planning Department (PlanD) in 2019, the area is mostly occupied by brownfield uses which existed when the first statutory plan was gazetted, and the area is accessible via Fan Kam Road.

5. Background

The Site is not subject to active planning enforcement action.

6. Previous Applications

The Site is involved in five previous planning applications submitted by different applicants as the current application for proposed temporary vehicle park for heavy vehicles (including container vehicles), and open storage of building materials, machinery, sand and bricks and / or vehicles for a period of 3 years. The application sites were within Category 3 area under the then TPB PG-No. 13D and 13E. They were all rejected by the Committee or the Board on review between 2006 and 2014 on similar grounds that the proposed developments were not in line with the planning intention of the “R(D)” zone; the proposed developments were not compatible with the surrounding land uses; and the applications did not comply with TPB PG-No. 13D/ 13E in that the

sites falls within Category 3 area and no previous approval had been granted, no technical assessments had been submitted to demonstrate that the development would not generate adverse impacts, there were adverse departmental comments and local objection against the application. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

7. **Similar Applications**

7.1 There are ten similar applications for various open storage uses for a period of 3 years within the same “R(D)” zone since the promulgation of the then TPB PG-No. 13E on 17.10.2008. All of them fall within Category 3 area under the then TPB PG-No. 13E and the current TPB PG-No.13F. Four cases were approved and six cases were rejected. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

Four Approved Applications

7.2 Applications No. A/YL-PH/602, 664, 731 and 801 covering the same site were approved with conditions by the Committee between 2010 and 2019 mainly for the reasons that there was no known permanent development at that part of the “R(D)” zone and the applications would not frustrate the long-term planning intention of the “R(D)” zone; and the developments were generally in line with the then TPB PG-No.13E in that previous approvals had been granted, relevant departments generally had no adverse comment, and the concerns of concerned departments could be addressed by appropriate approval conditions.

Six Rejected Applications

7.3 Applications No. A/YL-PH/681, 684, 695, 704, 722 and 760 at three different sites were rejected by the Committee or the Board on review between 2014 and 2018 on similar grounds that the developments were not in line with the planning intention of the “R(D)” zone; the applications did not comply with the then TPB PG-No. 13E in that no previous approval had been granted; the applicants failed to demonstrate that there would not be adverse environmental, landscape and drainage impacts on the surrounding areas; there were adverse departmental comments and local objection against the applications; the developments were not compatible with the surrounding land uses; and approval of the applications would set an undesirable precedent.

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

8.1 The Site is:

- (a) paved and currently vacant; and

- (b) accessible from Fan Kam Road via a local access.
- 8.2 The surrounding area is rural in character intermixed with open storage / storage yards, workshops, parking of vehicles, fallow agriculture land, residential structures / dwellings and vacant / unused land:
- (a) to the north, east and west are open storage / storage yards, workshops, parking of vehicles, fallow agriculture land, residential structures / dwellings (closest one is about 15m to the north) and vacant / unused land; and
 - (b) to the south across the stream is 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 an 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. 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 (CE/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) 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.

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 stormwater drainage proposal, including how the development would not affect part of the existing watercourse and its bank slightly encroached by the southern boundary of the Site, and implementation and maintenance of the stormwater drainage proposal for the development should be included.

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. The good practice guidelines for open storage in **Appendix V** should be adhered to.
- (c) Moreover, having considered the nature of the open storage, approval condition on provision of fire extinguisher(s) with 6 weeks from the date of planning approval is recommended to be added. 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

10.1.7 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 UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments on unauthorized building works, provision of access, temporary or licensed structures are at **Appendix VII**.
- (d) Detailed checking under the BO will be carried out at 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 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 Comments Received During Statutory Publication Period

On 1.12.2020, the application was published for public inspection. During the three-week statutory publication period, four public comments from a local villager and individuals were received (**Appendices VI-1 to VI-4**), one of which comments that additional information on environmental and fire safety issues should be provided. The other three comments object to the application mainly on the grounds that the development would increase traffic flow and affect pedestrian safety and living quality and cause noise nuisance; and the Site was used as open storage and there should be enforcement of unapproved use.

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 “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. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed 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 for 3 years would not frustrate the long-term planning intention of the “R(D)” zone.

12.2 The proposed development is considered not incompatible with the surrounding land uses, which is rural in character intermixed with workshop, parking of vehicles, fallow agriculture land, residential structures / dwellings and vacant / unused land.

12.3 According to TPB PG-No. 13F, the Site falls within Category 2 area. The following 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 no adverse comment from concerned departments, including DEP, CE/MN of DSD, C for T and D of FS. 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 subject to five previous applications for temporary vehicle park and open storage uses which were rejected by the Committee / the Board when the Site fell within Category 3 area under the then TPB PG-No.13D and 13E for reasons as stated in paragraph 6 above, including that the applications did not comply with the then TPB PG-No.13D / 13E. The Site and its adjoining area was reclassified from Category 3 to Category 2 area under the TPB PG-No. 13F in 2020, and the current application is considered generally in line with TPB PG-No.13F as stated in paragraph 12.4 above. There are also ten similar applications within the same “R(D)” zone for various open storage uses as detailed in paragraph 7 above, with four of them approved and six rejected. The latter were rejected on the grounds that they did not comply with the then TPB PG-No.13E as the sites fell within Category 3 areas and no previous approval was granted at the sites.
- 12.6 Four public comments were received during the statutory publication period, one commenting on and three objecting to the application as stated in paragraph 11 above. In this regard, relevant government departments’ comments and planning and 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 22.1.2024. 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 stormwater 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 22.7.2021;
- (g) in relation to (f) above, the implementation of the stormwater 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 22.10.2021;
- (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) 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 5.3.2021;
- (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 22.7.2021;
- (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 22.10.2021;
- (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; and
- (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.

Advisory Clauses

The recommended advisory clauses are attached 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 proposed 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. 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 plans received on 23.11.2020
Appendix Ia	FI received on 13.1.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications of the Site
Appendix IV	Similar applications within the same "R(D)" zone on the Pat Heung OZP
Appendix V	Good Practice Guidelines for open storage

Appendices VI-1 to VI-4	Public comments received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Application
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**