

RNTPC Paper No. A/YL-ST/577
For Consideration by
the Rural and New Town
Planning Committee
on 18.9.2020

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

APPLICATION NO. A/YL-ST/577

- Applicant** : Mr. Poon Chi Lai
- Site** : Lots 210 (Part), 341 S.B RP (Part), 353 (Part) and 354 (Part) in D.D. 105 and Adjoining Government Land (GL), San Tin, Yuen Long
- Site Area** : About 925m² (including about 152m² of GL (about 15.97%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved San Tin Outline Zoning Plan (OZP) No. S/YL-ST/8
- Zoning** : “Residential (Group D)” (“R(D)”)
- Application** : Renewal of Planning Approval for Temporary Vehicle Repair Workshop with Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary vehicle repair workshop with office for a period of 3 years. The application site (the Site) falls within an area zoned “R(D)” on the approved San Tin OZP No. S/YL-ST/8 (**Plan A-1**). The applied use is neither a Column 1 nor Column 2 use within the “R(D)” zone. According to the covering Notes of OZP, temporary use not exceeding a period of three 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 used for the applied use under the approved application.
- 1.2 The Site is the subject of 7 previously approved applications for temporary vehicle repair workshop (**Plan A-1**). The last Application No. A/YL-ST/510 for the same use submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 27.10.2017 for a period of 3 years until 31.10.2020. All the approval conditions had been complied with.
- 1.3 As shown on the layout plan at **Plan A-2**, the Site is accessible at the south via a local track leading to Castle Peak Road – San Tin. The major parameters of the current application are the same as the last approved Application No.

A/YL-ST/510 and are summarized below:

No. of structures (Building height, no. of storeys)	2 (office and pump room) (3-6m, 1-2 storeys)
Total floor area	171m ²
No. of parking spaces	2 (heavy goods vehicles)
No. of vehicle repair bay	3 (12m x 5.5m) 1 (9.5 x 5.5m)
Operation Hours	9:30a.m. to 6:00p.m. from Mondays to Saturdays (No operation on Sundays and public holidays)

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form received on 4.8.2020 with layout plan, drainage plan, fire service installations (FSIs) proposal including plans and certificate **(Appendix I)**
- (b) Further Information (FI) received on 1.9.2020 with undertaking to confirm that there is no change to the layout and proposed use from the previous application* **(Appendix Ia)**
- (c) FI received on 11.9.2020 in response to comments of Commissioner for Transport (C for T)* **(Appendix Ib)**

**exempted from publication requirement*

2. Justifications from the Applicant

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

- (a) As there is no residential use in proximity, the applied use would not cause adverse impact on local residents.
- (b) Owing to the Site's close proximity to the road, emergency repair services can be provided to vehicles in need of the service promptly.
- (c) Various departments including Environmental Protection Department, Drainage Services Department, Fire Services Department, Highways Department and Transport Department are satisfied with the operation of the vehicle repair workshop at the Site since it commenced operation in 1996.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the "Owner's

Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by sending notice to San Tin Rural Committee and posting notice on the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)

4.1 According to TPB PG-No. 34C, the main criteria for assessing applications for renewal of planning approval are as follows:

- (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.

Town Planning Board Guidelines for Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance (TPB PG-No. 12C)

4.2 According to TPB PG-No. 12C, the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are summarized as follows:

- (a) the intention of the WBA is to protect the ecological integrity of the fish ponds and wetland within the Wetland Conservation Area (WCA) and prevent development that would have a negative off-site disturbance impact on the ecological value of fish ponds; and
- (b) within the WBA, for development or redevelopment which requires planning permission, an ecological impact assessment (EcoIA) would need to be submitted. Some local and minor uses (including temporary uses) are however exempted from the requirement of EcoIA.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

The Site is the subject of 7 previous applications submitted by the same applicant for temporary vehicle repair workshop, which were all approved by the Committee between 2000 and 2017 for periods of 3 years mainly on considerations that the proposed developments were not incompatible with the surrounding land uses; and suitable temporary use could be considered in the interim as long as they would not frustrate the permanent development of the Site and would not have adverse impacts on the area. However, the planning permission for the Application No. A/YL-ST/426 was revoked in 2013 due to non-compliance with approval conditions. All approval conditions of the last approved application (No. A/YL-ST/510) had been complied with. Details of these applications are summarized at **Appendix II**. Their locations are shown on **Plan A-1**.

7. **Similar Applications**

Since 2010, within the same “R(D)” zone on the San Tin OZP, there are 8 applications for similar vehicle park or open storage of containers and cargo handling and forwarding facilities uses with or without vehicle/tyre repair workshop. All of the applications were approved by the Committee mainly on the considerations that the developments were not incompatible with the surrounding land uses and the concerns of Government departments could be addressed by imposing approval conditions. Details of these applications are summarized at **Appendix III**. Their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently used for the applied use with valid planning permission;
- (b) accessible at the south via a local track leading to Castle Peak Road – San Tin; and
- (c) located within the WBA of Deep Bay Area.

8.2 The surrounding areas are mainly cargo handling and forwarding facility and open storage yards. Some open storage yards are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to the immediate north are cargo handling and forwarding facilities approved under Application No. A/YL-ST/525. To the further north across a nullah is a pond;
- (b) to the west and southwest are a retail shop for container tractors, medium goods vehicles, vehicle parts and building materials approved under

Application No. A/YL-ST/538, cargo handling and forwarding facility with vehicle repair workshop and open storage yards;

- (c) to the south is Castle Peak Road – San Tin, Civil Engineering and Development Department (CEDD) cycling track and San Tin Highway; and
- (d) to the immediate east are open storage yards of scrap metals and vehicle for sale. To the further northeast is a nullah and San Tin Tsuen Road, and across San Tin Tsuen Road are vacant land and construction sites for small houses.

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 summarised as follows:

Land Administration

10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises GL and Old Schedule Agricultural Lots held under Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The GL of the Site is covered by a Short Term Tenancy (STT) No. 2813 for the purpose of “Temporary Vehicle Repair Workshop with Office”.
- (c) The private land of Lot No.354 and 210 in D.D.105 is covered by Short Term Waiver (STW) No. 3984 and 4632 respectively to permit structures for the purpose of “Temporary Vehicle Repair Workshop with Office” and “Temporary Cargo Handling and Forwarding Facilities and Open Storage of Containers with Vehicle Repair Workshop”.
- (d) Should planning approval be given to the planning application, the STT/STT holders will need to apply to his office for modification of the STW/STT conditions if there is any irregularity on site. Moreover, the lot owner(s) of the lot(s) 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 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 the Lands Department 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 applications are approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

10.1.2 Comments of the C for T:

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) The Site is connected to Castle Peak Road – San Tin via a section of a local access which is not managed by Transport Department. The land status of the local access should be clarified with the Lands Department by the applicant. Moreover, the management and maintenance responsibilities of the local access should be clarified with the relevant lands and maintenance authorities accordingly.
- (c) As there is no information about the vehicular access at the private lot(s) to the concerned site, the applicant should arrange by themselves if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access.
- (d) Should the application be approved, the following condition should be incorporated:

no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

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

- (a) The proposed access arrangement of the Site from Castle Peak Road – San Tin should be commented and approved by Transport Department.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and Castle Peak Road – San Tin.
- (c) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

10.1.4 Comments of the Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department (CE/RD 2-2, RDO, HyD):

As the Site falls outside any administrative route protection boundary,

gazetted railway scheme boundary or existing railway protection boundary of any railway systems, he has no comment on the above application from railway development point of view.

Environment

10.1.5 Comment of the Director of Environmental Protection (DEP):

- (a) In accordance with the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he has no comment on the application.
- (b) No environmental related complaint related to the Site was recorded in the past 3 years.

Nature Conservation

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

As the application involves the continuation of an existing use, he has no comment on the application.

Fire Safety

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

He has no objection in principle to the renewal application subject to the existing FSIs implemented on the Site being maintained in efficient working order at all times.

Buildings Matters

10.1.8 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 (BA) for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (b) If the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (c) Before any new building works (including containers and open sheds as temporary buildings) 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 (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (d) For UBW erected on leased land, enforcement action may be taken by the BA 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.

Drainage

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

- (a) He has no objection in principle to the application from drainage operation and maintenance point of view.
- (b) He notes that the applicant implemented the drainage facilities on site under the last previous planning Application No. A/YL-ST/510. The relevant drainage proposal and implementation works were considered satisfactory at the time. The applicant should provide DSD a set of latest record photographs showing the completed drainage works (including internal condition of the drains) with the corresponding photograph locations marked clearly on the approved drainage plan.
- (c) His detailed comments are at **Appendix V**.

Landscape

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

- (a) He has no objection to the application from landscape planning perspective.
- (b) The Site, located to north of Castle Peak Road – San Tin and west of San Tin Tsuen Road, falls within an area zoned “R(D)” on the approved San Tin OZP No. A/YL-ST/8 was the subject of 7 previous applications. The latest Application No. A/YL-ST/510 for the same use as the current application was approved with conditions by the Committee of the Board on 27.10.2017 and all approval conditions had been complied with.

- (c) According to the applicant's submission (**Appendix I**), it is observed that the layout of the proposed use on the current application is the same as the previous approved Application No. A/YL-ST/510 and therefore impact on the existing vegetation within the Site is not anticipated.

District Officer's Comments

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

His office has no comment on the application and the local comments shall be submitted to the Board directly, if any.

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

- (a) Commissioner of Police (C of P);
- (b) Director of Food and Environmental Hygiene (DFEH);
- (c) Head of the Geotechnical Engineering Office (H(GEO)), CEDD;
- (d) Project Manager (West) (PM(W)), CEDD;
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure and Cultural Services (DLCS); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 11.8.2020, the application was published for public inspection. During the three-week statutory publication period, four public comments were received from the registered owner of part of the Site (Lot No. 353 in D.D. 105), San Tin Rural Committee and two individuals. The concerned registered owner objected to the application and stated that their consent had not been obtained for the proposed use, while the others objected on the grounds that the proposed development would cause adverse traffic impact, create road safety problem and not in line with the planning intention of "R(D)" zone (**Appendix IV**).

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning approval for temporary vehicle repair workshop with office for a period of 3 years. The Site falls within the "R(D)" zone which is intended 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 applied use for temporary vehicle repair workshop with office is not in line with the planning intention of the "R(D)" zone. However, approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the subject "R(D)" zone as there is

no known development proposal of the site.

- 12.2 The applied use is considered not incompatible with the surrounding land uses which comprise mainly cargo handling and forwarding facilities, open storage of containers with vehicle repair workshop and open storage yards of scrap metals (**Plan A-2**).
- 12.3 The renewal is in line with TPB PG-No. 34C in that since the last approval, there has been no major change in planning circumstances, Government departments concerned have no objection to or adverse comment on the application, adverse impacts arising from the renewal of the planning approval are not envisaged, all the approval conditions under the previous approval had been complied with, and the 3-year approval period sought is the same as the previous approval.
- 12.4 Although the Site falls within the WBA of the TPB PG-No. 12C, the guidelines also specify that planning applications for temporary uses are exempted from the requirement of EcoIA. DAFC has no comment on the application as the application involves the continuation of the applied use.
- 12.5 Relevant departments consulted including DEP, C for T, D of FS, CE/MN of DSD and CTP/UD&L of PlanD had no adverse comments on environmental, traffic, fire safety, drainage and landscape aspects. To mitigate any potential environmental impacts and to address their requirements, approval conditions restricting the operation hours, maintenance of paving and boundary fencing, and on technical requirements of concerned departments are recommended in paragraph 13.2 (a) to (g) below. Besides, the applicant should be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 12.6 The Site is the subject of 7 previous approvals for same use. Since 2010, the Committee has approved a total of 8 applications for similar uses within the same “R(D)” zone. Approval of the current application is in line with the previous decisions of the Committee.
- 12.7 There are four objecting public comments on the application as stated in paragraph 11. The planning assessment and departmental comments above are of relevance. An advisory clause reminding the applicant to liaise with the concerned owner(s) to resolve any land issues is proposed in paragraph (a) of **Appendix V**.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary vehicle repair workshop with office could be tolerated for a further 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 1.11.2020 until 31.10.2023. 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 9:30 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 the Site at any time during the planning approval period;
- (d) the paving and boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (e) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of an as-built drainage plan and photographic records of the existing drainage facilities 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 1.2.2021;
- (h) if any of the above planning condition (a), (b), (c), (d), (e) or (f) 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
- (i) if the above planning condition (g) 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 approval conditions are similar to those under the last Application No. A/YL-ST/510, except for those on traffic, landscape, FSIs and drainage facilities which are revised to accord with the latest circumstances/comments of relevant departments.]

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 vehicle repair workshop with office 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 to justify 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

Appendix I	Application Form with drainage and FSIs Plans received on 4.8.2020
Appendix Ia	FI received on 1.9.2020
Appendix Ib	FI received on 11.9.2020
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same “R(D)” zone on the approved San Tin OZP No. S/YL-ST/8
Appendix IV	Public comments received during the statutory publication period
Appendix V	Recommended advisory clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos