

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-SK/269

- Applicant** : Ms. Sun Chor Yee
- Site** : Lot 294 S.B ss.1 in D.D. 112, Kam Sheung Road, Kam Tin, Yuen Long
- Site Area** : About 221.9 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Open Storage of Vehicles Prior to Sale or Export and Temporary Warehouse for Storage of Vehicle Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of vehicles prior to sale or export and temporary warehouse for storage of vehicle parts at the application site (the Site) for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the Notes of the OZP, ‘open storage’ and ‘warehouse’ uses are neither a Column 1 nor Column 2 use within “AGR” zone. Notwithstanding this, temporary use or development of any land or building not exceeding a period of 3 years may be allowed with permission from the Town Planning Board (the Board). The Site is partially vacant with some areas occupied by containers and used for parking of vehicles without valid planning permission.
- 1.2 According to the applicant, the applied development comprises an open-air area for storage of a maximum of three private cars (about 17% of the Site) and three single-storey structures (about 3m high) with a total non-domestic floor area of about 50 m² for storage of vehicle parts and meter room (**Drawings A-1 and A-2**). The operation hours will be from 8:00am to 7:00pm on Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is directly accessible from Kam Sheung Road (**Plan A-2**).
- 1.3 In support of the application, the applicant has submitted the following

documents:

- (a) Application form with attachments received on 15.10.2019 **(Appendix I)**
- (b) Further Information (FI) dated 4.12.2019 **(Appendix Ia)**
(*exempted from publication*)
- (c) FI dated 9.12.2019 **(Appendix Ib)**
(*exempted from publication*)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendices I to Ib**, and are briefly summarized as follows:

- (a) The applied development is intended to temporarily store vehicles prior to sale or export and associated vehicle parts from another company due to lack of storage space at the latter's main office at Kam Tin Road.
- (b) The Site would solely be used for temporary storage of vehicles and vehicle parts. No vehicle repairing and disassembly works would be carried out and therefore environmental pollution is not anticipated.
- (c) There will be three car parking spaces on the Site. The estimated traffic generation by the development (i.e. five times per week and between 10:00 am and 4:00 pm) would not cause adverse traffic impact to Kam Sheung Road.
- (d) Traffic flashlights and warning signs will be installed near the entrance of the Site to ensure traffic and pedestrian safety. Besides, smooth manoeuvring spaces of vehicles between Kam Sheung Road and the Site will be provided.
- (e) Appropriate greening measures would be carried out on the Site.
- (f) Security guard and surveillance system will be arranged on the Site to ensure safety of the surrounding areas.

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

The applicant is the sole 'current land owner'. Detailed information would be deposited at the meeting for Members' inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 13E for "Application for Open Storage and Port Back-up Uses" (TPB PG-No. 13E) promulgated by the Board on 17.10.2008 is relevant to the application. The Site falls within Category 3 areas under the guidelines. The following criteria are relevant:

Category 3 areas: applications would normally not be favorably considered unless the applications are on sites with previous planning approvals. In that connection, sympathetic consideration may be given if the applicants have demonstrated genuine

efforts in compliance with approval conditions of the previous planning applications and included in the fresh application relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted on a temporary basis up to a maximum period of 3 years.

5. Background

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

6. Previous Application

- 6.1 A minor portion of the Site is involved in one previous application (No. A/YL-SK/40) for temporary storage of building materials for a period of 12 months. Details of the previous application are summarized in **Appendix II** and its location is shown on **Plan A-1**.
- 6.2 Application No. A/YL-SK/40 (occupying a larger area) for temporary storage of building materials for a period of 12 months was rejected by the Rural and New Town Planning Committee (the Committee) on 16.5.1997 mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; there was no justification to allow open storage to proliferate in the “AGR” zone even on a temporary basis; there was insufficient information in the submission to demonstrate that the development would not have adverse visual and drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent for other similar applications.

7. Similar Application

- 7.1 There is one similar application (No. A/YL-SK/87) for temporary open storage of building materials for 3 years within the same “AGR” zone and adjoining “Village Type Development” (“V”) zone on the OZP. Details of the application are summarised in **Appendix III** and its location is shown on **Plan A-1**.
- 7.2 The site of the similar application is located to the west of the Site, and the application was rejected by the Committee on 22.10.1999 mainly on the grounds that the development was not in line with the planning intentions of “AGR” and “V” zones; the development was not compatible with the surrounding areas; there was no information in the submission to demonstrate why suitable sites within “Industrial (Group D)” (“I(D)”) and “Open Storage” (“OS”) zones in Kam Tin, Pat Heung and Shek Kong areas could not be made available for development; there was insufficient information in the submission to demonstrate that the development would not have adverse drainage impact on the surrounding areas; and the approval of the application would set an undesirable precedent for similar uses.

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

8.1 The Site is:

- (a) hard-paved and fenced;
- (b) partially vacant with some areas occupied by containers and used for parking of vehicles without valid planning permission; and
- (c) directly accessible from Kam Sheung Road.

8.2 The surrounding areas of the Site are predominantly rural in character intermixed with active/fallow agricultural land, garden, goat farm, greenhouse and open storage/warehouse uses, of which some are suspected authorized developments subject to enforcement action.

- (a) to its north and northwest is a garden, and to its further north are a goat farm, active/fallow agricultural land and vacant/unused land.
- (b) to its northeast and east are a warehouse, a greenhouse, an open storage of construction materials and vacant/unused land, and to its further east are active agricultural land; and
- (c) to its southwest, south and southeast across Kam Sheung Road are a machinery company, a few open storage yards, a real estate agency, a plant nursery and vacant/unused land.

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 of 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) the Site is accessible from Kam Sheung Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site;
- (c) the Site falls within the Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed relevant airfield height limit within the SKAHRA; and
- (d) should planning approval be given to the planning application, the lot owner(s) 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as 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 premium or fee, as may be imposed by 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, having regard to the applicant's FI (**Appendix Ia** to **Ib**) on the justifications on the number/dimension of car parking spaces, trip generation, ingress/egress and manoeuvring arrangement;
- (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; and
- (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 (TD). 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 of HyD):

- (a) HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road;

- (b) the applicant should provide the run in/out at Kam Sheung Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement;
- (c) the applicant shall be responsible for any modification of the existing underground utilities for the proposed run-in/out. Comment from the underground utility company on the proposed modification works should be sought; and
- (d) adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Agriculture and Nature Conservation

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

- (a) he does not support the application from agricultural point of view;
- (b) the Site is currently a paved vacant land. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses and plant nurseries, etc. It is considered that the Site possesses potential for agricultural rehabilitation; and
- (c) noting that the Site is primarily disturbed in nature, he has no comments on the application from nature conservation perspective.

Environment

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

- (a) should the application be approved, the applicant should be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites”; and
- (b) there is no substantiated environmental complaint received by DEP in the past three years.

Landscape

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

- (a) he has reservation on the application from landscape planning point of view;
- (b) according to the aerial photo dated 13.3.2018, the Site was situated in an area of rural landscape character comprising of scattered tree groups, temporary structures, active and abandoned farmland. Given the nature of the applied use and no similar open storages found in close proximity to the Site, the proposed development is incompatible with the landscape character of the area; and
- (c) referring to his site visit on 8.11.2019, the Site is paved and vacant. No existing tree is found within the Site. Although significant adverse impact on landscape resources due to the applied development is not anticipated, approval of the application would set an undesirable precedent to encourage similar developments encroaching upon the “AGR” zone. The cumulative effect would result in degradation of landscape character and cause significant adverse impact on landscape resources.

Drainage

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

- (a) he has no objection in-principle to the proposed development from public drainage point of view; and
- (b) should the application be approved, the conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Water Supplies

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

he has no objection to the application. His detailed comments are at **Appendix V**.

Building Matters

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

- (a) before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO;
- (b) for UBW erected on leased land, enforcement action may be taken by 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;
- (c) 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 respectively; and
- (d) the Site does not abut on a specified street of not less than 4.5m wide, and its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulations at the building plan submission stage.

Fire Safety

10.1.10 Comment of the Director of Fire Services (D of FS):

- (a) he has no objection in-principle to the proposal subject to fire service installations being provided to his satisfaction;
- (b) in consideration of the design/nature of the proposal, fire service installations are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations to his department for approval. In formulating the proposal, the applicant is advised to make reference to the requirements detailed in **Appendix V**.
- (c) 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 to the satisfaction of D of FS should be appended. To address this approval condition, the applicant should be advised to submit a valid fire certificate (FS 251) to his department for approval.
- (d) the applicant is reminded that if the proposed structure(s) is required to comply with the BO, detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

he has not received any comments from the locals upon close of consultation and has no particular 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 (PM/W of CEDD);
- (b) Commissioner of Police (C of P); and
- (c) Director of Electrical and Mechanical Services (DEMS)

11. Public Comments Received During the Statutory Publication Period

On 25.10.2019, the application was published for public inspection. During the three-week statutory public inspection period, a total of seven public comments from the Hong Kong Bird Watching Society, Kadoorie Farm & Botanic Garden Corporation, World Wild Fund for Nature Hong Kong, Designing Hong Kong Limited and three members of public (**Appendix IV**) were received. All raised objections to the application mainly on the grounds that the development is not in line with the planning intention of "AGR" zone; it is incompatible with the adjacent environment; the approval of the application would encourage "destroy-first, build-later" approach; the development would set an undesirable precedent to the future development; and the increasing number of vehicles entering/existing the Site would pose danger to the road safety.

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage of vehicles prior to sale or export and temporary warehouse for storage of vehicle parts at the Site for a period of 3 years. The Site falls within an area zoned "AGR" on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). The proposed 'open storage' and 'warehouse' uses are not in line with the planning intention of "AGR" zone, which 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. DAFC does not support the application from agricultural point of view, considering that the Site possesses potential for agricultural rehabilitation and can be used for agricultural activities such as greenhouses and plant nurseries, etc. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of the "AGR" zone, even on a temporary basis.

12.2 The surrounding areas of the Site are predominantly rural in character intermixed with active/fallow agricultural land, garden, goat farm and greenhouse (**Plan A-2**). CTP/UD&L of PlanD has reservation on the application on the considerations that the applied development is incompatible with the surrounding

landscape character, and the approval of the application would set an undesirable precedent to encourage similar developments encroaching upon the “AGR” zone. The cumulative effect would result in degradation of landscape character and cause significant adverse impact on landscape resources. C for T has no comment on the application from traffic engineering perspective, having regard to the applicant’s FI on the justifications on the number/dimension of car parking spaces, trip generation, ingress/egress and manoeuvring arrangement. Other relevant departments including DEP, CE/MN of DSD and CE/C of WSD have no objection to/no adverse comments on the application.

- 12.3 The application does not comply with the TPB PG-No. 13E in that the Site falls within Category 3 areas where applications would normally not be favorably considered unless the applications are subject to previous planning approvals. It is noted that no previous planning approval has been granted to the Site and there are adverse departmental comments and local objections against the application.
- 12.4 There is one previous application (No. A/YL-SK/40) covering part of the Site and its surrounding areas and one similar application (No. A/YL-SK/87) within the same “AGR” zone and adjoining “V” zone on the OZP (**Plan A-1**). Both applied for storage of building materials for 12 months and 3 years respectively. Both applications were rejected by the Committee in 1997 and 1999. The Committee’s considerations on the above two applications as stated in paragraphs 6 and 7 are generally applicable to the current application. The rejection of this application is in line with the Committee’s previous decisions.
- 12.5 Regarding the seven public comments received during the statutory publication period as stated in paragraph 11, relevant Government departments’ comments and planning considerations set out in paragraphs 12.1 to 12.4 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 as stated in paragraph 11, the Planning Department does not support the application for the following reasons:
 - (a) the 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, and 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 to justify a departure from the planning intention, even on a temporary basis;
 - (b) the development is incompatible with the surrounding areas which are predominantly rural in character with active/fallow agricultural land;
 - (c) the development does not comply with the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” in that no previous planning approval has been granted to the Site and there are adverse departmental comments and local objections against

the application; and

- (d) the approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

13.2 Alternatively, 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 13.12.2022. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 8:00 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of 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 **13.6.2020**;
- (f) in relation to (e) above, the implementation of 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 **13.9.2020**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the provision of fire extinguisher(s) together with a valid fire certificate (FS 251) 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 **24.1.2020**;
- (i) if any of the above planning condition (a), (b), (c), (d) 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;

- (j) if any of the above planning condition (e), (f), or (h) 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
- (k) 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 V**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application form with attachments received on 15.10.2019
Appendix Ia	Further Information (FI) dated 4.12.2019
Appendix Ib	FI dated 9.12.2019
Appendix II	Previous Application
Appendix III	Similar Application
Appendix IV	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access and Parking Spaces Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos