

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

**APPLICATION NO. A/YL-SK/274**

- Applicant** : Mr. HUI Kam-lun represented by Mr. Rocky TAY
- Site** : Lot 297 S.A ss.2 (Part) in D.D. 112, Lin Fa Tei, Shek Kong, Yuen Long
- Site Area** : About 400 m<sup>2</sup>
- 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 Vehicle Maintenance Workshop for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary ‘vehicle maintenance workshop’ use 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, ‘vehicle maintenance workshop’ use is 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 currently used for the applied use without valid planning permission.
- 1.2 According to the applicant, the applied development comprises one single-storey structure (4m high) with a total floor area of about 100 m<sup>2</sup> for vehicle maintenance workshop use and an open-air area (about 300 m<sup>2</sup>) accommodating a total of five non-fixed private car parking spaces (**Drawing A-1**). The operation hours will be 10:00am to 5:00pm from 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:

Application form with a layout plan received on 17.12.2019      **(Appendix I)**

- 1.4 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Rural and New Town Planning Committee (the Committee) at this meeting.

**2. Justifications from the Applicant**

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

- (a) The applicant, who is a professional mechanic, has been working for vehicle maintenance in the past 40 years.
- (b) The applicant is also an environmentalist who promises to exercise his duty with extra care and would not adversely affect the surrounding areas.

**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 (TPB) 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 notice to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is subject to a planning enforcement action against unauthorized development (UD) (No. E/YL-SK/223) occupying a slightly larger area involving storage and workshop uses (**Plan A-2**). An Enforcement Notice (EN) was issued on 27.8.2019 requiring discontinuation of UD by 27.10.2019. Recent site inspection on 23.12.2019 revealed that the UD still continued upon expiry of the EN, and further action may be followed.

**5. Previous Application**

- 5.1 The Site is involved in one previous application (No. A/YL-SK/40) for temporary storage of building materials occupying a larger area 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**.
- 5.2 The above application was rejected by 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.

## 6. Similar Application

There is no similar application for vehicle maintenance workshop within the same “AGR” zone on the OZP.

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

7.1 The Site is:

- (a) hard-paved and fenced;
- (b) currently used for the applied use without valid planning permission; and
- (c) directly accessible from Kam Sheung Road.

7.2 The surrounding areas of the Site are predominantly rural in character intermixed with active/fallow agricultural land, gardening, plant nursery and open storage uses which are suspected unauthorized developments.

- (a) to its north and northeast is a gardening site, and to its further north and northeast are active/fallow agricultural land intermixed with a few domestic dwellings/structures and vacant land;
- (b) to its east are vacant/unused land and an open storage of vehicles prior to sale or export and warehouse for storage of vehicle parts (under Application No. A/YL-SK/269 recently rejected by the Committee on 13.12.2019) (**Plan A-2**);
- (c) to its south is Kam Sheung Road, and its further southeast, south and southwest off Kam Sheung Road are a machinery company and open storage of vehicles and construction materials within the “Residential (Group D)” (“R(D)”) zone; and
- (d) to its west and northwest are a plant nursery, an animal boarding establishment with hospice services (under Application No. A/YL-SK/263 recently rejected by the Committee on 17.1.2020) (**Plan A-2**) and vacant land.

## 8. 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.

## **9. Comments from Relevant Government Departments**

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

9.1.1 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) within the Site, a Modification of Tenancy (MOT) permit no. MT/LM 13701 was issued to permit the erection of specified agricultural structures on Lot 297 S.A ss.2 in D.D. 112; and
- (c) 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 applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by 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**

9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) he has reservation on the application from traffic engineering perspective due to insufficient information, as the applicant fails to (i) justify the proposed parking provision considering the Site operation, and (ii) provide the trip generation/attraction due to the Site operation and assess the traffic impact on Kam Sheung Road; and
- (b) the applicant should note that the local access between Kam Sheung Road and the Site is not managed by Transport Department (TD). The land status of the local access road should be checked with LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 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; and
- (b) 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**

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

- (a) he does not support the application from agricultural point of view. The Site is currently a cemented warehouse. 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
- (b) noting that the Site is primarily disturbed in nature, he has no comments on the application from nature conservation perspective.

### **Environment**

9.1.5 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**

9.1.6 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 scattered tree groups, temporary structures, active and abandoned

farmland. Given the nature of the applied use and no similar vehicle maintenance workshop found in close proximity to the Site, the applied development is incompatible with the landscape character of the area; and

- (c) referring to his site visit on 10.1.2020, the Site is hard paved and occupied with temporary structures. 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 of the area.

### **Drainage**

9.1.7 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.

### **Building Matters**

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

- (a) if the existing structures (not being a New Territories Exempted Houses) are erected on leased land without approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (b) for UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD’s prevailing 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 BO;
- (c) 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 BA should be obtained, otherwise they are UBW under BO. An

Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with BO;

- (d) 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
- (e) 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**

9.1.9 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 (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 where the proposed FSI to be installed should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

9.1.10 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.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C of WSD);
- (b) Project Manager/West, Civil Engineering and Development Department (PM/W of CEDD);
- (c) Commissioner of Police (C of P); and
- (d) Director of Electrical and Mechanical Services (DEMS).

## **10. Public Comments Received During the Statutory Publication Period**

On 24.12.2019, the application was published for public inspection. During the three-week statutory public inspection period, a total of four public comments from the Hong Kong Bird Watching Society, Kadoorie Farm & Botanic Garden Corporation, Designing Hong Kong Limited and one member of public (**Appendix III**) were received. All raised objections to the application mainly on the grounds that the applied 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 similar applications resulting in degradation of the environmental quality; the development would set an undesirable precedent to the future development; and no justification was provided in the submission to support conversion of the Site to brownfield use.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary ‘vehicle maintenance workshop’ use 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 ‘vehicle maintenance workshop’ use is 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.
- 11.2 The applied development is considered incompatible with the surrounding areas which are rural in character with active/fallow agricultural land, gardening and plant nursery (**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 of the area. In addition, C for T has reservation on the application as the applicant fails to provide sufficient traffic-related information to demonstrate that the applied development would not cause adverse traffic impact on Kam Sheung Road. Other relevant departments including DEP, CE/MN of DSD and CE/C of WSD have no objection to/no adverse comments on the application.
- 11.3 There is one previous application for storage of building materials for 12 months (No. A/YL-SK/40) covering the Site and its surrounding areas (**Plan A-1**), which was rejected by the Committee in 1997. The Committee’s considerations on the above application as stated in paragraphs 5 are generally applicable to the current application. The rejection of this application is in line with the Committee’s previous decision.
- 11.4 The Site is subject to a planning enforcement action. An EN requiring discontinuation of the UD involving storage and workshop uses has been issued,



and the UD still continued upon expiry of the notice. Approval of the application may encourage similar UD's in the area.

- 11.5 Regarding the four public comments received during the statutory publication period as stated in paragraph 10, relevant Government departments' comments and planning considerations set out in paragraphs 11.1 to 11.4 above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as stated in paragraph 10, the Planning Department does not support the application for the following reasons:

- (a) the applied 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 for a departure from the planning intention of "AGR" zone, even on a temporary basis;
- (b) the applied development is incompatible with the surrounding areas which are predominantly rural in character with active/fallow agricultural land;
- (c) the applicant fails to demonstrate that the applied development would not cause adverse traffic impacts to the surrounding areas; 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.

- 12.2 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 20.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 5:00 p.m. and 10:00 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 internal transport facilities proposal with trip generation and attraction from/to the Site within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the TPB by 20.9.2020;
- (f) 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 20.9.2020;
- (g) in relation to (f) 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 20.12.2020;
- (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 submission of proposal for fire service installations and water supplies for fire-fighting 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 20.9.2020;
- (j) in relation to (i) above, the implementation of proposal for fire service installations and water supplies for fire-fighting 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 20.12.2020;
- (k) if any of the above planning condition (a), (b), (c), (d) 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;
- (l) if any of the above planning condition (e), (f), (g), (i) or (j) 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
- (m) 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 IV**.

**13. Decision Sought**

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application form with a layout plan received on 17.12.2019
<b>Appendix II</b>	Previous Application
<b>Appendix III</b>	Public Comments
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**