

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/770

- Applicant** : Mr. TANG Kwun-sung
- Site** : Lot 1479 S.B (Part) in D.D.111, Leung Uk Tsuen, Kam Tin Road, Pat Heung, Yuen Long
- Site Area** : 288m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Open Storage of Private Cars and Lorries for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of private cars and lorries for a period of three years. The Site is currently used for the applied use without valid planning permission (**Plans A-2 to A-4**).
- 1.2 The Site was involved in seven previous applications (No. A/YL-PH/345, 443, 535, 603, 658, 680 and 724) for the same temporary open storage use. All the previous applications were approved with conditions by the Rural and New Town Planning Committee (the Committee). The last application No. A/YL-PH/724 submitted by the same applicant for the same applied use for a period of three years, was approved with conditions by the Committee on 22.1.2016. However, the planning permission was revoked on 22.12.2017 due to non-compliance with approval conditions in relation to the provision of run-in/out to/from Kam Tin Road and implementation of tree preservation proposal.
- 1.3 According to the applicant, a single-storey container-converted structure with floor area of about 30m² with height of about 2.59m (moveable and about 2m above ground level) is provided at the Site. Eight private cars and three lorry parking spaces are provided on-site. The operation hours are between 9:00

a.m. and 6:00 p.m. from Mondays to Saturdays, and there is no operation on Sundays and public holidays. No medium or heavy goods vehicle exceeding 3.3 tonnes will be parked/stored on the Site. The Site is abutting and accessible from Kam Tin Road. The site layout plans, drainage proposal and landscape proposal as submitted by the applicant are at **Drawings A-1 to A-4**.

- 1.4 A comparison of the current application and the previous approved Application No. A/YL-PH/724 is shown in the following table:

Major Development Parameters	Last Approved Application No. A/YL-PH/724 (a)	Current Application (b)	Differences (b) – (a)
Site Area (m ²)	288	288	-
Applied Use	Temporary Open Storage of Private Cars and Lorries for a Period of 3 Years	Temporary Open Storage of Private Cars and Lorries for a Period of 3 Years	-
No. of Structures	1	1	-
Total Floor Area (m ²)	30	30	-
Building Height of Structures (m)	2	2.59	+0.59 (+29.5%)
Parking Space for Private Cars	5	8	+3 (60%)
Parking Space for Lorries	3	3	-

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

- (a) Application form with plans received on 31.1.2018 (**Appendix I**)
- (b) Further information (FI) received on 14.2.2018 in responses to departmental comments (**Appendix Ia**)
(accepted and exempted from publication and recounting requirements)
- (c) FI received on 6.3.2018 and 8.3.2018 in responses to departmental comments (**Appendix Ib**)
(accepted and exempted from publication and recounting requirements)

- (d) FI received on 12.3.2018 clarifying the operation (**Appendix Ic**) hours
(accepted and exempted from publication and recounting requirements)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form in **Appendices I to Ib**. They can be summarized as follows:

- (a) The business on-site has been in operation for more than 10 years and planning permission was last granted for the development under Application No. A/YL-PH/724 and valid from 22.1.2016 to 22.1.2019. The planning permission was revoked due to the non-compliance of approval conditions. The applicant committed to fulfil the approval conditions if the planning approval is granted.
- (b) The application is on temporary basis which will not jeopardize other land use in future. Also, there are some similar operations in the surrounding areas, approval of the application would strengthen the coordination among different operators and provide impetus on the development of the industry.
- (c) Only vehicles not exceeding 3.3 tonnes are parked / stored on the Site, as such, no traffic congestion nor damage to the road surface would be created. The operation hours are between 9:00a.m. and 6:00p.m Mondays to Saturdays. There is no operation on Sundays and public holidays, no noise nuisance would be generated to the nearby residents.

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. 31) by posting site notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Town Planning Board Guidelines**

The Site falls within Category 3 areas under the Town Planning Board Guidelines No. 13E for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13E) promulgated by the Town Planning Board (the Board) on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is currently not a subject of any active enforcement case. The Site was previously covered by planning permission for the same use. Since the previous planning permission has been revoked, the current use is subject to investigation.

6. **Previous Applications**

6.1 The Site is the subject of seven previous applications (No. A/YL-PH/345, 443, 535, 603, 658, 680 and 724) for temporary open storage of private cars and lorries use submitted by the same applicant as the current application approved with conditions by the Committee on 27.10.2000, 19.9.2003, 2.2.2007, 29.1.2010, 25.1.2013, 13.12.2013 and 22.1.2016 respectively. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1b**.

6.2 Application No. A/YL-PH/345 was approved with conditions by the Committee on 27.10.2000 for 2 years on the consideration that the use would unlikely induce significant traffic and environmental impacts on the surrounding areas. Relevant Government departments consulted had no adverse comments on the application and no local objection was received against the application. The site would be required for road works of 'Improvement to Kam Tin Road, Stage II' which was then scheduled to start construction in end-2002, therefore the permission was given on a temporary basis for 2 years up to 27.10.2002.

6.3 Applications No. A/YL-PH/443, 535, 603, 658, 680 and 724 were approved with conditions by the Committee on 19.9.2003, 2.2.2007, 29.1.2010, 25.1.2013, 13.12.2013 and 22.1.2016 respectively on similar consideration that the development was generally in line with the Town Planning Board Guidelines on Application for Open Storage and Port Back-up Uses in that previous approval had been granted. Relevant Government departments consulted generally had no adverse comments on the application and no local objection to the application had been received. However, the last three applications (No. A/YL-PH/658, 680 and 724) submitted by the same applicant for the same use were revoked between 2013 and 2017. Application No. A/YL-PH/658 was revoked on 29.7.2013 due to non-compliance of approval conditions in relation to the submission of drainage, tree preservation and fire safety aspects. Application No. A/YL-PH/680 was revoked on 13.12.2015 due to non-compliance of approval conditions regarding the provision of run-in/out to/from Kam Tin Road. Application No. A/YL-PH/724 was revoked on 22.12.2017 due to non-compliance of provision of run-in/out to/from Kam Tin Road and the implementation of the tree preservation proposal.

6.4 Compared with the last application which was submitted by the same applicant for the same applied open storage use, the current application involves increase in building height from 2 m to 2.59m (+0.59m) and parking space for private cars from 5 to 8 (+3) with a different site layout.

7. Similar Applications

- 7.1 There were a total of 18 similar applications (No. A/YL-PH/608, 616, 635, 645, 659, 666, 667, 678, 683, 686, 687, 698, 701, 719, 733, 740, 752 and 756) for various temporary open storage uses within the same “AGR” zone since the promulgation of the TPB PG-No. 13E on 17.10.2008. All the similar applications except Application Nos. A/YL-PH/645, 678, 687, 698 and 752 were approved with conditions by the Committee. Details of the applications are summarized in **Appendix IV** and the locations of the sites are shown on **Plan A-1a**.

Approved applications

- 7.2 Applications No. A/YL-PH/608, 666 and 733, and 616, 686, 701 and 756 for various temporary open storage uses approved with conditions by the Committee on 28.1.2011, 7.6.2013, 10.6.2016, 28.1.2011, 4.4.2014, 26.9.2014 and 22.9.2017 respectively are on two sites to the southeast of the Site. Application No. A/YL-PH/608 and 616 was approved mainly on the considerations that the original site of the applied uses had been affected by the XRL project and the applicant had made effort but no suitable site (except the site under application) was identified to continue his businesses; the location of the application near “OS” zone and no objection raised by relevant government departments. Considerations in favour of the application were given in view of the special background of the case, despite the site being located within Category 3 areas. Applications No. A/YL-PH/666, 686, 701, 733 and 756 were approved mainly on the considerations that approval on temporary basis would not frustrate the long-term planning intention; the nearby area was zoned “OS” and in line with TPB PG-No. 13E as previous approval had been grant and no objection from relevant departments and their concerns could be addressed by approval conditions. However, Applications No. A/YL-PH/608 and 686 was revoked on 28.9.2012 and 4.10.2014 respectively due to non-compliance with the approval conditions.
- 7.3 Applications No. A/YL-PH/659 and 719, and 635, 667, 683 and 740 on two sites for various temporary open storage uses were approved with conditions by the Committee on 8.2.2013, 7.8.2015, 20.1.2012, 5.7.2013, 7.2.2014 and 12.5.2017 respectively mainly on the grounds that the development would not frustrate the long-term planning intention of the “AGR” zone; the development was not incompatible with the surrounding land uses, in particularly that the sites were located next to the Shek Kong Stabling Slidings of the XRL and landscape impact would not be significant; and/or complied with the TPB PG-No. 13E in that there were previous planning approvals and requirement of concerned departments could be addressed by approval conditions. However, Applications No. A/YL-PH/635, 659 and 667 were revoked on 20.4.2013, 8.11.2013 and 5.10.2013 respectively due to non-compliance with the approval conditions.

Rejected applications

7.4 Applications No. A/YL-PH/645, 678 and 687 located to the southwest on about the same site, A/YL-PH 698 (partly on “V” zone) and 752 located to the further southeast of the Site for various temporary open storage uses were rejected by the Committee on 24.8.2012, 8.11.2013, 25.4.2014, 12.9.2014 and 11.8.2017 respectively on similar grounds that the proposed developments were not in line with the planning intention of the “AGR” zone; the application did not comply with the TPB PG-No.13E in that the proposed developments were not compatible with the surrounding land uses which were predominated by residential structures/dwellings and agricultural land, there was no previous approval granted at the site, and there were adverse departmental comments and local objections against the application; the applicant failed to demonstrate that the proposed development would not generate adverse environmental/drainage impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.

8. The Site and Its Surrounding Areas (Plans A-1a to A-2 and Photos on Plan A-4)

8.1 The Site:

- (a) directly abuts Kam Tin Road;
- (b) is fenced off and paved; and
- (c) is currently used for the applied use without valid planning permission.

8.2 The surrounding areas are mixed with open storage/storage yards, workshops, graves, residential structures/dwellings and vacant/unused land;

- (a) to its immediate east is an open storage of vehicles which is suspected unauthorized development (UD) subject to enforcement action by the Planning Authority. Residential structures/dwellings and a temporary site office operated with planning permission under Application No. A/YL-PH/717 are located to its further southeast on land zoned “Village Type Development” (“V”) on the OZP (**Plan A-2**);
- (b) to its immediate south and west are residential structures/dwellings. Open storage yards, graves and vacant/unused land are located to the further southwest; and
- (c) across Kam Tin Road is an area zoned “Open Storage” on the OZP. Open storage yards and workshops are found within the zone.\

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 are summarized as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 1479 S.B in D.D. 111 is covered by a Short Term Waiver (STW) No. 4652 to permit structures erected thereon for the purpose of “temporary open storage of private cars and lorries”.
- (c) The Site is accessible to Kam Tin Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions to regularize any irregularities (if any) on site. Such application(s) 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 premium or fee, as may be imposed by the LandsD.

Traffic

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

- (a) There is insufficient information in the submission for TD to support on the application. He has the following outstanding comments on the application from traffic engineering perspective not yet addressed by the applicants:
 - (i) The applicants should demonstrate that there is sufficient space for vehicle to maneuver within the site on plan, especially for moving out the stored vehicle in the furthest corner.

- (ii) The applicant should demonstrate on plan that there is sufficient sightline for vehicle leaving the site to Kam Tin Road given the existing trees next to the site entrance.
 - (iii) The trip generation should be provided in hourly rate especially in rush hour.
- (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 and traffic assessment and implementation of traffic management measures as proposed in the traffic assessment to the satisfaction of the C for T or of the Town Planning Board should be included in the planning approval and the conditions on submission and provision of run-in/out proposal to/from Kam Tin Road as stated in the previous approval (Application No. A/YL-PH/724) is also required.

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

- (a) If the proposed run-in is agreed by TD, the applicant should construct a run-in/out at the access point at Kam Tin 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.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

- (a) As the Site has been used as an open storage of private cars and lorries for a number of years and its potential for agricultural rehabilitation is very low, he has no strong view against the application from the agricultural point of view.
- (b) The applicant is advised to preserve the mature roadside trees on the northern boundary of the Site along Kam Tin Road.

Environment

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

- (a) There was no environmental complaint received for the Site in the past three years. However, he does not support the application as there are sensitive receivers, i.e. residential dwellings immediate next to the Site at its south and west (**Plan A-2**) and environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by the EPD in order to minimize any possible environmental nuisances.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) The Site is the subject of seven previous applications and she had no objection to the last application (No. A/YL-PH/724) from the landscape planning perspective.
- (c) Based on the aerial photo taken in April 2017, the Site is situated in an area of rural landscape character comprising of scattered tree groups, small houses and open storages. Although the applied use is not in line with the planning intention of "AGR" zone, it is not incompatible to the surrounding environment.
- (d) According to the site photos taken in February 2018, the Site is currently used for car parking and open storage. Existing trees within the Site are generally in good condition. Further adverse landscape impact arising from the continuous open storage use is not anticipated.
- (e) Should the application be approved, the conditions for submission and implementation of tree preservation proposal should be included in the planning permission.

Drainage

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

- (a) As the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-PH/724, he has no in-principle objection to the development.
- (b) Should the application be approved, conditions requiring the applicant to maintain the drainage facilities implemented under Application No. A/YL-PH/724 and to submit records of the existing drainage facilities on the Site should be included in the planning permission.

Fire Safety

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

- (a) He has no in-principle objection to the application 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 plan should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Good practice guidelines for open storage should be adhered to **(Appendix V)**.
- (c) Having considered the nature of the open storage, the approval condition regarding the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to his satisfaction shall be added. To address this condition, the applicant should be advised to submit a valid fire certificate (FS 251) for his approval.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) There is no record of approval by the Building Authority for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the applied use.
- (b) The applicant's attention is drawn to the following points:

- (i) If the existing structures are erected on leased land without approval of the BD (not being New Territories Exempted Houses), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (ii) For UBW erected on leased land, enforcement action may be taken by the 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.
- (iii) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of BD should be obtained. Otherwise, they are UBW. An Authorized Person should be appointed as the coordinator for the proposed building works in accordance with the BO. 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.
- (iv) If the Site does not abut on a specified street of not less than 4.5m wide, their permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Electricity

10.1.10 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with the planning, designing, organising and supervising any activity near the underground cable under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans to find out whether there is any underground cable and / or overhead line within and / or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the "Code of Practice on Working

near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

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

He has not received any comment from the 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) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

11.1 On 9.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 2.3.2018, one comment from a general public was received (**Appendix VI**).

11.2 The commenter commented that the Site was an open storage and now for car park use and objected to or raised concerns on the application for the reasons that the application is a misuse of zoning; the vehicle owners are obliged to provide their own parking spaces; continued approval of the application on temporary basis constitutes the current land use problem; and rejecting the application would encourage the government and the applicant to address planning issue.

12. Planning Considerations and Assessments

12.1 According to TPB PG-No. 13E, the Site falls within Category 3 areas. The following guidelines are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications within Category 3 areas would normally not be favourably 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 applications relevant technical

assessments/proposals 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.

- 12.2 The applied use is for temporary open storage of private cars and lorries for a period of three years within the “AGR” zone. The development is not in line with the planning intention of the “AGR” zone which is intended 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. DAFC has no strong view against the application as the Site has been used as an open storage for a number of years and its potential for agricultural rehabilitation is very low.
- 12.3 The surrounding area are predominated by residential dwellings/structures, open storage yards and vacant land. While there are two open storage yards in the vicinity of the Site within the same “AGR” zone (**Plan A-2**), however, it is noted that both of them are suspected unauthorized development subject to enforcement action by the Planning Authority. Concerned departments consulted, except DEP and C for T, have no adverse comment on the application. DEP does not support the application as there are residential structures located to the immediate south and west of the Site (**Plan A-2**), and environmental nuisance is expected. C for T advised that his concerns on whether there is sufficient space for vehicle to maneuver within the site, and sufficient sightline for vehicles leaving the Site, and trip generation have not been addressed by the applicants. As such, there is insufficient information for him to support the application.
- 12.4 The Site is subject to seven previous applications (No. A/YL-PH/345, 443, 353, 603, 658, 680 and 724) submitted by the same applicant for the same use as the current application which were approved by the Committee from 2000 to 2016 as stated in paragraph 6 above (**Plan A-1b** and **Appendix III**). However, the last three applications were revoked in 2013, 2015 and 2017 respectively due to non-compliance with approval conditions. Application No. A/YL-PH/658 was revoked on 29.7.2013 due to non-compliance of approval conditions in relation to the submission of drainage, tree preservation and fire safety aspects, and Application No. A/YL-PH/680 was revoked on 13.11.2015 due to con-compliance of approval condition on provision of run-in/out to/from Kam Tin Road. When approving the last Application No. A/YL-PH/724, shorter compliance periods had been granted to monitor the progress of compliance of approval conditions, and the applicant had been advised that sympathetic consideration might not be given to any further application should the applicant fail to comply with the approval conditions again resulting in the revocation of the planning permission. However, the applicant still failed to fulfill his commitment as he could not comply with the approval conditions on the provision of run-in/out to/from Kam Tin Road and implementation of tree preservation

proposal by the specified time limits under the last planning permission. As such, the last application was revoked again on 22.12.2017. In view of the above, the applied use is subject to repeated non-compliance of approval conditions and the applicant fails to demonstrate genuine efforts in compliance with approval conditions of previous planning permissions.

- 12.5 Under the current application, the applicant has submitted drainage and landscape plans. However, noting the applicant's repeated failures to comply with the approval conditions particular on traffic and tree preservations aspects of the previous planning permissions, it is doubtful that the traffic and landscape concern could be duly addressed by way of imposing such approval conditions. Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning permissions for temporary uses which are also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control. In light of the above, the current application does not warrant sympathetic consideration.
- 12.6 A public comment was received during the statutory publication period. The commenter objected to or raised concerns on the application for reasons as mentioned in paragraph 11.2 above. In this regard, the planning considerations and assessments 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 comment in paragraph 11 above, 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 to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justification has been given in the submission for a departure from the planning intention, even on temporary basis; and
 - (b) previous planning permissions granted to the applicant under Applications No. A/YL-PH/658, 680 and 724 were revoked due to non-compliance with approval conditions. Approval of the application with repeated non-compliances would set an undesirable precedent for other similar planning applications for temporary uses which are also subject to the requirement to comply with the approval conditions, thus nullifying statutory planning control.
- 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 16.3.2021. The following conditions of approval with shorter compliance periods 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (d) no vehicles exceeding 3.3 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked/stored on or enter/exit 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 traffic assessment within **3** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 16.6.2018;
- (g) in relation to (f) above, and implementation of traffic management measures as proposed in the traffic assessment, if any, within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 16.9.2018;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 16.6.2018;
- (j) the submission of a run-in/out proposal to/from Kam Tin Road within **3** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 16.6.2018;
- (k) in relation to (j) above, the provision of run-in/out to/from Kam Tin Road within **6** months from the date of planning approval to the satisfaction of the Commissioner for Transport and Director of Highways or of the Town Planning Board by 16.9.2018;

- (l) the submission of tree preservation proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.6.2018;
- (m) in relation to (l) above, the implementation of tree preservation proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 16.9.2018;
- (n) the provision of fire extinguisher(s) with a valid fire certificate (FS251) within **6** weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 27.4.2018;
- (o) the submission of fire services installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 16.6.2018;
- (p) in relation to (o) above, the implementation of fire services 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 16.9.2018;
- (q) if any of the above planning conditions (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;
- (r) if any of the above planning conditions (f), (g), (i), (j), (k), (l), (m), (n), (o) or (p) 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
- (s) 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 VII**.

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 and supplementary information received on 31.1.2018
Appendix Ia	FI received on 14.2.2018
Appendix Ib	FI received on 6.3.2018 and 8.3.2018
Appendix Ic	FI received on 12.3.2018
Appendix II	Relevant extract of Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13E)
Appendix III	Previous s.16 applications covering the Site
Appendix IV	Similar applications within the same “AGR” zone or straddling the same “AGR” zone on the Pat Heung OZP
Appendix V	Good practice guidelines for open storage sites
Appendix VI	Public comment received during the statutory publication period
Appendix VII	Advisory Clauses
Drawings A-1 and A-2	Site Layout Plans
Drawing A-3	Drainage Proposal Plan
Drawing A-4	Landscape Proposal Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
MARCH 2018**