

RNTPC Paper No. A/YL-PH/866
For Consideration by
the Rural and New Town
Planning Committee
on 8.1.2021

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

APPLICATION NO. A/YL-PH/866

- Applicant** : Tanfield Estates Limited represented by R&U Planning and Development Consultants Limited
- Site** : Lots 20 (Part), 21, 22 (Part), 23 (Part), 24 (Part), 25 (Part), 27 S.A (Part), 42 (Part) and 43 (Part) in D.D. 108 and Adjoining Government Land, Pat Heung, Yuen Long
- Site Area** : About 11,370m² (including about 1,212m² of Government land (about 10.7%))
- 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** : Renewal of Planning Approval for Temporary Open Storage of Porcelain Products/Sanitary Utensils for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary open storage of porcelain products/sanitary utensils for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Pat Heung Outline Zoning Plan No. S/YL-PH/11 and the applied use is neither Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use with planning permission (**Plans A-2, A-4a and A-4b**). All the approval conditions of the last approved application No. A/YL-PH/764 have been complied with and the planning permission is valid until 20.1.2021.
- 1.2 According to the applicant, the nature of operation, including the operation hours, the general layout and covered storage area are the same as the approved scheme

under application No. A/YL-PH/764. The existing structures have a total covered storage area of about 5,508.2m² and the height of the structures is about 6m. The operation hours are between 7:00 a.m. and 6:00 p.m. Mondays to Saturdays. There is no operation on Sundays and public holidays. Three loading/unloading spaces for heavy goods vehicles are provided. The Site is accessible from Fan Kam Road via a local track. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 When compared with the last approved application No. A/YL-PH/764, the current application submitted by the same applicant is the same in terms of applied use, site area, total covered storage area and number of loading/ unloading bay.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with plans received on 12.11.2020 **(Appendix I)**
 - (b) Further Information (FI) dated 30.12.2020 in response **(Appendix Ia)** to departmental comments
[exempted from publication requirement]

2. **Justifications from the Applicant**

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

- (a) The Site is subject to 9 previous planning approvals and approval conditions for all the previous permissions have been complied with.
- (b) The development is in line with Town Planning Board Guidelines No. 13F for applications for open storage and port back-up uses and No. 34C for renewal of planning approval.
- (c) The nature of operation and the operational characteristics remain unchanged. The general layout and the total covered storage area within the Site are the same as those of the previously approved scheme.
- (d) All the previous planning approvals have demonstrated that the applied use is compatible with the surrounding land uses and would have no adverse development impacts on the surrounding areas.
- (e) Application for amendment/regularisation to the existing Short Term Waiver and Short Term Tenancy has been submitted to the Lands Department (LandsD) by the applicant and the application is under processing. The applicant has been

liaising with LandsD on matters relating to the application including clarification on covered area, etc.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is one of the “current land owners” of the private land portion of the Site and has complied with the requirement 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 registered mail to the other owners. Detailed information would be deposited at the meeting for Member’s inspection. For the Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

4. Town Planning Board Guidelines

4.1 The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

- (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.

4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 3 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is currently not subject to any active planning enforcement action.

6. Previous Applications

- 6.1 The Site is subject to 10 previous applications all submitted by the same applicant for the same applied use. Details of the previous applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/9 was rejected by the Board on review in 1995 on the grounds that the proposed use was not in line with the planning intention of the “AGR” zone; the development was not compatible with the nearby residential developments; and approval of the application would set an undesirable precedent for other similar applications.
- 6.3 The remaining 9 applications were approved with conditions by the Committee between 1998 and 2018. Application No. A/YL-PH/176 was approved for a period of 12 months taking into consideration that there were no agricultural activities on the site for years; the use was not incompatible with the surrounding land uses; and the items stored on the site would unlikely generate adverse environmental impact on the surrounding areas. Application No. A/YL-PH/267 was also approved for 12 months on the grounds that no workshop use was involved and that the items stored in the site would unlikely generate adverse impacts on the surroundings areas. Although there were scattered village houses located near the site, the fencing of the site would help to reduce the visual impact of the development on those sensitive receivers.
- 6.4 Applications No. A/YL-PH/310, 423, 512, 576, 632, 709 and 764 were each approved for a period of 3 years for similar reasons that the development was not incompatible with the surrounding land uses; it complied with Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up use’ in that previous approvals had been granted for the same use and government departments consulted generally had no adverse comments on the application. All the approval conditions of the last application (No. A/YL-PH/764) have been complied with and the planning permission is valid until 20.1.2021.

7. Similar Application

There is no similar application for open storage use within the same “AGR” zone on the OZP since the promulgation of the then TPB PG-No. 13E on 17.10.2008.

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

- 8.1 The Site is:
 - (a) paved and fenced;
 - (b) currently used for the applied use with planning permission; and

(c) accessible via a local track leading from Fan Kam Road.

8.2 The surrounding areas are rural in character intermixed with residential dwellings/structures, an orchard, vacant/unused land, workshops, warehouse, and parking of vehicles:

(a) to its east and northeast are residential dwellings/structures (the nearest is about 10m to its east) and unused land. To the further east is a vegetated area under “Conservation Area” (“CA”) zone;

(b) to the south and west are parking of vehicles, a warehouse, an orchard and residential dwellings/structures. A natural stream course runs further south and west and there are parking of vehicles, vehicles repair workshops, unused lands and residential dwellings/structures across the stream; and

(c) to the north is a local track. Across the track are some residential dwellings/structures. Further north is a vegetated area zoned “CA”.

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, LandsD):

(a) The Site comprises Government Land (GL) and Old Schedule Agricultural Lots held under the Block Government Lease which contain the restriction that no structures are allowed to be erected without the prior approval of the Government.

No permission is given for occupation of part of the GL (about 12m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.

- (b) Within the Site, Lot Nos. 20, 21, 22, 23, 24, 25 and 42 all in D.D. 108 are covered by Short Term Waiver (STW) No. 2559 permitted “ancillary use to storage of porcelain products/sanitary utensils”. Part of GL within the Site (1,200m²) is covered by Short Term Tenancy (STT) No. 1724 permitted “storage of porcelain products/sanitary utensils with ancillary structures”.
- (c) Should the application be approved, the STW holder(s) and the STT tenant will need to apply to his office for modification of the STW/STT conditions where appropriate, and 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 LandsD 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 application 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) He has no comment on the application from tragic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by the Transport Department. 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.

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

- (a) His department shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

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

Considering that the previous applications for the same use as the current application were approved by the Board, he has no strong view against the application for renewal of planning approval. Should the application be approved, the applicant is advised to adopt appropriate measures to avoid disturbing or polluting the watercourses adjacent to the Site during operation.

Environment

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

- (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
- (b) According to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, he does not support the application as sensitive receivers, i.e. residential dwellings/structures are found in the vicinity of the Site (the nearest is about 10m to its east (**Plan A-2**)) and the applied use involves the use of heavy vehicles, thus environmental nuisance is expected.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP.

Landscape

10.1.6 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 the landscape planning perspective.

- (b) Based on the aerial photo taken on 18.10.2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, open storages and abandoned farmlands. The development is considered not incompatible with the surrounding landscape setting. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Noting that there is no substantial change in the layout of development, further significant adverse impact to landscape resources within the Site arising from the development is not anticipated.
- (c) Should the application be approved, approval condition to maintain the existing trees and landscape plantings within the Site at healthy conditions at all times during the planning approval period should be included.
- (d) The applicant is reminded that approval of the planting application under Town Planning Ordinance does not imply approval of tree preservation/removal scheme under the Lease. The application should seek comments and approval from the relevant authority on the proposed tree works and compensatory planting proposal, where appropriate.

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 fire service installations implemented on the Site being maintained in efficient working order at all times.

Drainage

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

- (a) He has no objection in principle to the development.
- (b) Presumably, the applicant would maintain the same drainage facilities as those for the previous approved planning application No. A/YL-PH/764. The applicant should inform relevant department if there is any change on site.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-PH/764 and submission of records

of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Water Supply

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

- (a) He has no objection to the application.
- (b) Existing water mains will be affected (**Plan A-2**). The developer shall bear the cost of any necessary diversion works affected by the development.
- (c) In case it is not feasible to diver the affected water mains, a waterworks reserve within 1.5 metres from the centreline of the water mains shown on **Plan A-2** shall be provide to WSD. No structures shall be erected over this waterworks reserve and such area shall not be used for storage purposes.
- (d) The Water Authority and his officers and contractors, his or their workmen shall have free access at all times to the said area with necessary plant and vehicles for the purpose of laying, repairing and maintenance of water mains and all other services across, through or under it which the Water Authority may require or authorize.
- (e) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

Building Matters

10.1.10 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 use related to the application.
- (b) The following points should have the applicant's attention is drawn to the following points:
 - (i) If the existing structures are erected on leased land without approval of the Buildings Department (BD) (not being a

New Territories Exempted Houses), they are unauthorized under the Building Ordinance (BO) and should not be designated for any use under the application.

- (ii) Before any new building works (including containers / open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iii) 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.
- (iv) 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.
- (v) 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.

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no comment on the application.

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

- (a) Director of Electrical and Mechanical Services;
- (b) Project Manager/New Territories West, Civil Engineering and Development Department; and
- (c) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 24.11.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals was received (**Appendices IV-1 and IV-2**). The comments object to the application mainly on the grounds that storage and workshop will increase traffic flow and affect safety and living standard of the villagers; the Site involves GL; the development is an inefficient use of land which can be accommodated in high-use custom built building; and there is no incentive for the operator to upgrade the Site.

12. Planning Considerations and Assessments

12.1 The application is a renewal application for temporary open storage of porcelain products/ sanitary utensils for a period of 3 years in the “AGR” zone. The planning intention of the “AGR” zone 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. The applied use is not in line with the planning intention of the “AGR” zone. Nevertheless, DAFC has no strong view against the application. It is considered that temporary planning permission for 3 years would not frustrate the long-term planning intention of the “AGR” zone.

12.2 The applied use is considered not incompatible with the surrounding land uses which are intermixed with residential dwellings/structures and unused/vacant land.

12.3 According to TPB PG-No. 13F, 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 would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous planning applications and relevant technical assessments/proposals have been included in the fresh applications, 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.

12.4 The application is generally in line with the TPB PG-No. 13F and TPB PG-No. 34C in that previous approvals for the same applied use have been granted and all

the approval conditions of the last approval (Application No. A/YL-PH/764) have been complied with. There is no adverse comment from the relevant departments (except DEP) and no major change in planning circumstances since the last approval. Comparing to the last approved application No. A/YL-PH/764, the current application is submitted by the same applicant for the same use with the same layout. Sympathetic consideration could be given to the current application.

- 12.5 DEP does not support the application as sensitive receivers, i.e. residential dwellings/structures are found in the vicinity of the Site (the nearest is about 10m to its east (**Plan A-2**)), and the applied use involves the use of heavy vehicles, thus environmental nuisance is expected. Nevertheless, there was no environmental complaints concerning the Site received in the past three years. To minimize any possible environmental nuisance generated by the development, approval conditions restricting the operation hours and prohibiting workshop activities are recommended in paragraphs 13.2 (a) to (c) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Moreover, the technical requirements of C of T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (d) to (j) below.
- 12.6 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the departmental comments and planning assessments and considerations above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary open storage of porcelain products/sanitary utensils could be tolerated for a period of 3 years.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years and be renewed from 21.1.2021 to 20.1.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 7:00 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 and other workshop activities shall be carried out on 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 existing trees and landscape planting on the Site shall be maintained 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 a record of the existing drainage facilities on the Site 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 21.4.2021;
- (h) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (i) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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;
- (j) 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; and
- (k) upon 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 Board.

[The above approval conditions are largely the same as those under the previous approved application No. A/YL-PH/764, except for change to those on fire services installations based on the comments of D of FS].

Advisory Clauses

The advisory clauses are in **Appendix V**.

13.3 There is no strong reason to reject the renewal application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for renewal of the planning approval.
- 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 plans received on 12.11.2020
Appendix Ia	Further Information received on 30.12.2020
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications covering the application site
Appendix IV	Public comments
Appendix V	Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with previous applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**