

RNTPC Paper No. A/YL-PH/868
For Consideration by
the Rural and New Town
Planning Committee
on 8.1.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/868

- Applicant** : 張文俊 represented by Goldrich Planners & Surveyors Limited
- Site** : Lots 185 S.B ss.2 (Part), 199 A.B (Part), 199 C.D RP, 200 A RP, 201 RP (Part), and 202 RP (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 2,086m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Container Vehicle Repair Yard, Vehicle Showroom and Warehouse with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application Site (the Site) for proposed temporary container vehicle repair yard, vehicle showroom and warehouse with ancillary office for a period of 3 years. According to the Notes for the “OS” zone, ‘Warehouse (excluding Dangerous Goods Godown)’ is a Column 1 use which is always permitted, while ‘Container Vehicle Repair Yard’ and ‘Vehicle Showroom’ (subsumed under ‘Shop and Services’) are Column 2 uses which require planning permission from the Town Planning Board (the Board). The Site is currently used for open storage of construction machinery.

- 1.2 The Site involves three previous applications for open storage of vehicles and construction machineries which were all approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1995 and 1996.
- 1.3 According to the applicant, the entire Site will be occupied by three one-storey (12m) temporary structures with a total floor area of about 2,086m² for container vehicle repair yard, vehicle showroom for private cars, storage of vehicle parts and ancillary office. Three parking space will be provided for private cars and a loading / unloading space will be provided for heavy goods vehicle. The operation hours are from 7:00am to 7:00pm Monday to Saturday. There will be no operation on Sunday and public holiday. The Site is accessible from Fan Kam Road via a local access. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form with supplementary information (**Appendix I**) and plans received on 16.11.2020
 - (b) Further Information (FI) received on 31.12.2020 and 4.1.2021 in response 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 **Appendix I**. They can be summarized as follows:

- (a) The proposed development will provide tractor head repairing services for container vehicle drivers, and create job opportunities for nearby residents.
- (b) The proposed development will be less active than other container storage sites and container vehicle parks. The proposed development is compatible with the open storage and workshops in the surrounding area, and will not induce adverse visual, drainage and traffic impacts.

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 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 site notice and sending registered mail to the

Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines on 'Application for Open Storage and Port Back-up Uses' (TPB PG-No.13F) promulgated by the Board on 27.3.2020 are relevant to this application. The Site falls within Category 1 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix II**.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

The Site involves three previous applications for temporary open storage of construction machineries and vehicles¹. They were approved with conditions by the Committee between 1995 and 1996 mainly on similar considerations that the development was in line with the planning intention of the "OS" zone; the development was not incompatible with the surrounding areas; the development complies with the "Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses"; and relevant Government departments consulted had no adverse comment on the application. Details of the previous application are summarized in **Appendix III** and their locations are shown on **Plan A-1b**.

7. **Similar Applications**

7.1 There is one similar application for container vehicle repair yard and warehouse within the same "OS" zone since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Application No. A/YL-PH/845 was approved with conditions by the Committee in 2020 mainly for the reasons that the development would not frustrate the long-term planning intention of the "OS" zone; the development was not incompatible with the surrounding land uses; and the application was generally in line with the TPB PG-No. 13F in that there was no local objection and relevant departments generally had no objection to the application; and concerns of relevant departments could be addressed by approval conditions.

¹ Under the then draft Pat Heung OZP No. S/YL-PH/1 in force when these applications were considered, 'storage of plant and machinery' and 'vehicle depot' were Column 2 uses and required planning permission from the Board.

7.2 There are two similar applications (No. A/YL-PH/797 and 847) for temporary shop and services (vehicles parts) (with/without ancillary storage and office) for a period of 3 or 5 years within the same “OS” zone. Both applications were approved with conditions by the Committee in 2018 and 2020 mainly for the reasons that the temporary nature of the proposed development would not jeopardize the long-term planning intention; the development was not incompatible with the surrounding land uses; and there was no adverse departmental comment.

7.3 Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1a**.

8. The Site and Its Surrounding Areas (Plans A-2 to A-4)

8.1 The Site is:

- (a) paved and currently used for open storage of construction machinery; and
- (b) accessible from Fan Kam Road via a local access.

8.2 The surrounding area is rural in character intermixed with open storage / storage yard, residential structures / dwellings and vacant / unused land:

- (a) to its north, south and west in the “OS” zone are open storage yards and vacant / unused land;
- (b) to its further south in the adjacent “Village Type Development” (“V”) zone are open storage / storage yards and residential structures / dwellings; and
- (c) to the east across Fan Kam Road in the “Residential (Group D)” (“R(D)”) and “V” zones are open storage yards, residential structures / dwellings (the nearest about 40m to the southeast) and unused land.

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

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 Old Scheduled 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) A portion of the Site falls within the Fungshui Area of Sheung Che Village.
- (c) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) 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 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 rent 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 traffic 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 Transport Department. 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/NT West, Highway Department (CE/NTW, HyD):

- (a) HyD 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.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”, she does not support the application as there are sensitive receivers, i.e. residential structures / dwellings located to the south and southeast of the Site (nearest 40m to the southeast) (**Plan A-2**), and the proposed 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.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.

- (b) Should the application be approved, approval conditions on the submission of a revised drainage proposal, and implementation and maintenance of the revised drainage proposal for the development should be included.
- (c) His detailed comments on the submitted drainage proposal are included in **Appendix V**.

Fire Safety

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

- (a) He has no in-principle objection 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 of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) 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

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) if the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should

not be designated for any proposed 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 the 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 the BO;
- (iii) before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with 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) 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 B(P)R at the building plan submission stage;
- (vi) any temporary shelters or converted containers for office, storage, washroom or other uses are considered as temporary buildings and are subject to the control of Part VII of the B(P)R; and
- (vii) detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

He has not received any comment from 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) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager (West), Civil Engineering and Development Department;
- (c) Commissioner of Police; and
- (d) Director of Electrical and Mechanical Services.

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, three public comments from a Yuen Long District Council Member and individuals were received (**Appendices VI-1 to VI-3**). The comments object to the application mainly on the grounds that the development is excessive in height and would cause adverse visual impact; warehouse in rural area should not exceed 9m; the development would result in adverse traffic, drainage and sewerage impacts, and would affect pedestrian safety and living quality.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary container vehicle repair yard, vehicle showroom and warehouse with ancillary office for a period of 3 years at the “OS” zone. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. The proposed warehouse for storage of vehicle parts is always permitted within the “OS” zone. While the proposed container vehicle repair yard and vehicle showroom is not entirely in line with the planning intention of the “OS” zone, they are not incompatible with the intended uses in the zone. It is considered that the approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “OS” zone.
- 12.2 The proposed development is considered not incompatible with the surrounding land uses, which is rural in character intermixed with open storage / storage yards, residential structures / dwellings and vacant / unused land.
- 12.3 According to TPB PG-No. 13F, the Site falls within Category 1 area. The following Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical

assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.4 The application is generally in line with the TPB PG-No. 13F in that there is generally no adverse comment from concerned departments, except for DEP. DEP does not support the application as there are sensitive receivers i.e. residential structures / dwellings to the south and southeast of the Site (nearest 40m to the southeast), and the proposed use involves the use of heavy vehicles whereby environmental nuisance is expected. Nevertheless, the Site near Fan Kam Road and vehicles enter/ exit the Site do not need to pass by residential structures / dwellings. The applicant will be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Open Storage and Temporary Uses’. The technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by imposing approval conditions recommended in paragraphs 13.2(a) to (f) below.
- 12.5 The Site is subject to three previous applications for open storage uses approved by the Committee in 1995 and 1996. There are also three similar applications within the same “OS” zone for container vehicle repair yard and shop and services, which were approved with conditions by the Committee in 2018 and 2020. Approval of the current application is in line with the Committee’s previous decisions on the similar applications.
- 12.6 Three public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, relevant government departments’ comments and planning and considerations and assessments as set out 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 has no objection to the proposed temporary container vehicle repair yard, vehicle showroom and warehouse with ancillary office 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 until 8.1.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference.

Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;

- (b) the submission of a revised 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 8.7.2021;
- (c) in relation to (b) above, the implementation of the revised 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 8.10.2021;
- (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service 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 8.7.2021;
- (f) in relation to (e) above, the implementation of the fire service installations proposal 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 8.10.2021;
- (g) if any of the above planning condition (a) or (d) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (h) if any of the above planning condition (b), (c), (e) or (f) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VII**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the "OS" zone which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

15. Attachments

Appendix I	Application Form with plans received on 16.11.2020
Appendix Ia	FI received on 31.12.2020 and 4.1.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Previous applications of the Site
Appendix IV	Similar applications within the same “OS” zone on the Pat Heung OZP
Appendix V	Detailed comments from the CE/MN of DSD
Appendices VI-1 to VI-3	Public comments received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1a	Location Plan with Similar Application
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
JANUARY 2021**