

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/480

<u>Applicant</u>	:	Mr. SIU Cheung Tung
<u>Site</u>	:	Lot 1153 RP (Part) in D.D. 119 and adjoining Government land (GL), Pak Sha Tsuen, Yuen Long, New Territories
<u>Site Area</u>	:	662 m ² (about) (including about 130m ² of GL)
<u>Lease</u>	:	Block Government Lease (demised for agricultural purposes)
<u>Plan</u>	:	Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/16
<u>Zonings</u>	:	“Other Specified Uses” annotated “Rural Use” (“OU(RU)”) [restricted to a maximum plot ratio of 0.4 and building height of 3 storeys (9m)]
<u>Application</u>	:	Temporary Vehicle Repair Workshop 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 vehicle repair workshop for a period of 3 years (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently occupied by the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site was the subject of two previous applications (No. A/YL-TT/115 and 130) when the Site was zoned “Agriculture” (“AGR”) on earlier versions of the OZP. The last application for temporary storage of vehicles and vehicle parts for sale and disposal for a period of 3 years was rejected by the Board on review on 2.8.2002. Details of the applications are summarised in paragraph 6 and **Appendix III**. Compared with the last application, the current application is submitted by a different applicant for a different use with different layout covering a similar site.

1.3 According to the applicant, the daily traffic generation is about 1 to 2 trips per day and about 20-25 licensed vehicles will visit the Site for repairing each month. A plan showing the proposed site layout submitted by the applicant is at **Drawing A-1**.

1.4 The major development parameters of the current application are summarised as follows:

Site Area	662 m ² (about) (including about 130m ² of GL)
Total Floor Area (Non-domestic)	390 m ² (about)
No. of Structures	6 <ul style="list-style-type: none"> • One canopy covering all structures • One for site office • One for storage of accessories • One for E&M room • One for storage of tools • One for storage of engine oil
Height of Structures	2-4m (1 storey)
Parking Spaces	11 <ul style="list-style-type: none"> • 8 for Private Cars (including 7 for licenced vehicles pending repair and 1 for staff use) • 3 for Light Goods Vehicle
Loading/Unloading Spaces	Nil
Operation Hours	9:00 a.m. to 7:00 p.m. Mondays to Saturdays, no operation on Sundays and Public Holidays

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

- (a) Application Form with plans received on 5.8.2019 (**Appendix I**)
- (b) Further Information received on 12.9.2019 providing clarification on traffic generation and vehicle access (**Appendix Ia**)
[accepted and exempted from publication and recounting requirements]
- (c) Further Information received on 26.9.2019 providing clarifications on the operation hours and operation (**Appendix Ib**)
[accepted and exempted from publication and recounting requirements]

2. Justifications from the Applicant

The applicant did not provide any justifications in support of the application.

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. 31A) by obtaining consent from the current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Designation of “OU(RU)” Zone and Application for Development within “OU(RU)” Zone’ (TPB PG-No. 38) are relevant to the application. The relevant extract of the Guidelines is attached at **Appendix II** and the assessment criteria are summarised as follows:

Application for development within “OU(RU)” zone would need to demonstrate that the proposed development is in line with the planning intention of the zone and will not adversely affect the rural environment, the conservation of the rural landscape and the maintenance of the rural character of the area and its surroundings and will not overstrain the capacity of existing and planned infrastructure such as transport, drainage, sewerage and water supply in the area. Each development proposal will be assessed on its individual merits, with particular reference to its sustainability in ecological, environmental and infrastructural terms.

5. Background

5.1 The Site and the subject “OU(RU)” zone was originally zoned “AGR” on the draft Tai Tong OZP No. S/YL-TT/1. The ‘Review of Rural Land Uses in Northern New Territories’ completed in 2001 recommended, amongst others, the introduction of the “OU(RU)” zone. In June 2002, three pieces of “AGR” land (including the Site) in Tai Tong were rezoned as “OU(RU)” under the draft Tai Tong OZP No. S/YL-TT/9. The draft OZP incorporating the amendments was later approved and renumbered as S/YL-TT/10 in June 2003. Since then, the zoning of the Site and the subject “OU(RU)” zone has remained unchanged.

5.2 The Site is currently not subject to planning enforcement action.

6. Previous Applications

6.1 The Site was the subject of two previous applications (No. A/YL-TT/115 and 130). Details of the applications are summarised in **Appendix III** and the boundaries of the sites are shown on **Plan A-1**.

6.2 Application No. A/YL-TT/115 for temporary open storage of drilling machinery (small scale), private cars and vehicle parts and application No. A/YL-TT/130 for temporary storage of vehicles and vehicle parts for sale and disposal each for a period of 3 years were rejected by the Committee and the Board on review on 17.8.2001 and 2.8.2002 respectively. The sites were zoned “AGR” at the time of the applications. Both applications were rejected mainly on considerations that the development was not in line with the planning intention of the "AGR" zone; the development was incompatible with the residential dwellings and/or rural land uses nearby; there was no information in the submission to demonstrate that

the development would not generate adverse environmental and drainage impacts on the surrounding areas; and approval of the applications would set an undesirable precedent. Compared with the last application, the current application is submitted by a different applicant for a different use with different layout covering a similar site.

7. Similar Application

There is one similar application within the subject “OU(RU)” zone. Application No. A/YL-TT/153 for temporary vehicle repair workshop for a period of 3 years was rejected by the Committee on 27.2.2004 on the considerations that the proposed use did not conform with the planning intention of the “OU(RU)” zone; the proposal was incompatible with the surrounding rural land uses; the applicant failed to demonstrate there was no adverse environmental, traffic, landscaping and drainage impacts on the surrounding areas; and approving the application would set an undesirable precedent. Details of the application are summarised at **Appendix IV** and the location of the site is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) accessible from Pak Sha Shan Road to its north via a short local track (**Plan A-2**);
- (b) paved and fenced off; and
- (c) currently occupied by the applied use without valid planning permission.

8.2 The surrounding areas have the following characteristics (Plans A-2 and A-3**):**

- (a) comprise mainly open storage/storage yards, warehouses, vehicle repair workshops and parking of vehicles, intermixed with residential structures and vacant/ unused land;
- (b) there are residential structures in the vicinity of the Site with the nearest one situated about 20m to its southwest;
- (c) to the northwest and west of the Site and across a nullah in the “Undetermined” zone of the approved Tong Yan San Tsuen OZP No. S/YL-TYST/12 are a temporary open storage yard for recycling materials with ancillary workshop and a temporary warehouse for storage of construction materials with ancillary workshop and site office operating with valid planning permissions (No. A/YL-TYST/936 and 966) with validities up to 18.1.2022 and 21.6.2022 respectively; and
- (d) except for the aforementioned operations with valid planning permissions, the other operations in the vicinity of the Site are mostly suspected

unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

9. Planning Intention

The planning intention of the “OU(RU)” zone is for the preservation of the character of the rural area. Uses or developments compatible with the rural landscape, such as passive recreation uses and a selected range of rural uses, may be allowed on application to the Board, with a view to upgrading or improving the area or providing support to the local communities.

10. Comments from Relevant Government Departments

10.1 The following government departments have been consulted and their views on the application and the public comments received, where relevant, are summarised 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) No permission is given for occupation of GL (about 130m² subject to verification) included in the Site. Attention should be drawn to the fact that any occupation of GL without Government’s prior approval is not allowed. With the implementation of the tightened arrangements for handling regularisation applications, her department will no longer accept application for regularisation of new or extension of unlawful occupation of GL or erection of new structures which is found commenced on or after 28.3.2017.
- (c) The Site is accessible from Pak Sha Shan Road via GL. Her office does not provide maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to her office to permit the structures to be erected or regularise any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of

temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by her department acting in the capacity as 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 her department.

Traffic

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

- (a) The land status of the access road/path/track leading to the Site from Pak Sha Shan Road should be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) A proper run-in/out or road connection to Pak Sha Shan Road should be constructed to the satisfaction of the Transport Department and his department.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Pak Sha Shan Road.

Environment

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

- (a) With respect to the public concern on noise nuisance from the proposed development (**Appendix V-1**), it is noted that the Site is currently occupied by the applied use and the operation hours will be 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays. Should the application be approved, an approval condition

should be imposed to control the operation hours.

- (b) There was no environmental complaint concerning the Site received in the past 3 years.
- (c) The applicant is advised to follow the relevant mitigation measures and requirement in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) issued by the Environmental Protection Department (EPD) and the Practice Note for Professional Person (ProPECC) PN 5/93 "*Drainage Plans subject to Comment by the EPD*" to minimise any potential environmental nuisance. Moreover, it is the obligation of the applicant to comply with all relevant ordinances in Hong Kong.

Landscape

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

- (a) She has reservations on the application from landscape planning perspective.
- (b) With reference to the aerial photo of 2018 (**Plan A-3**), the Site is hard paved with existing temporary structures occupying around half of the Site. No significant vegetation is found within the Site. The Site is in an area of rural landscape character predominated by open storage yards and temporary structures. The extensive hard paving and large temporary structures are incompatible with the planned landscape character of the “OU(RU)” zone which is intended primarily for the preservation of the character of the rural area to upgrade or improve the area, or provide support to the local communities.
- (c) Approval of the application would set an undesirable precedent attracting other incompatible uses to the “OU(RU)” zone. The cumulative impact would jeopardise the realisation of the intended rural landscape character.
- (d) The Site is not situated in a landscape sensitive zone and not adjoining any prominent public frontage. Should the application be approved, it is considered not necessary to impose a landscape condition.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, approval conditions should be stipulated requiring the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board.

Fire Safety

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

- (a) He has no objection in principle to the proposal subject to fire service installations (FSI) 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. In addition, the applicant should be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) 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

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

- (a) As there is no record of approval by the Building Authority 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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the captioned application.
- (c) 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.

- (d) 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 BD should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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.
- (f) 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.

Nature Conservation

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

As the Site is paved or disturbed, she has no comment on the application from nature conservation point of view. Nevertheless, should the application be approved, the applicant is advised to properly preserve the trees on the GL at the Site.

Others

10.1.10 Comments of the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) - Investigation". According to the Recommended Outline Development Plan of YLS promulgated on 8.8.2017, the Site falls within an area zoned as "Local Open Space" and an area shown as 'Road'.
- (b) The objective of YLS is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It

is noted that the application is for temporary use for a period of 3 years. In considering the application for temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS.

10.1.11 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the subject application.
- (b) The Site falls within the boundary of the proposed YLS Development – Stage 3. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and its detailed implementation programme with phasing and packaging of works for YLS Development is being formulated.

District Officer's Comments

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

Her office has not received any locals' comment on the application and she has no comment from departmental point of view.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Electrical and Mechanical Services (DEMS); and
- (c) Commissioner of Police (C of P).

11. Public Comments Received During the Statutory Publication Period

On 13.8.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.9.2019, four objecting public comments, including three from the general public (**Appendices V-1 to V-3**) and one from Designing Hong Kong Limited (**Appendix V-4**) were received. The three members of the general public objected the application on the grounds that the development is not in line with the planning intention of the "OU(RU)" zone; the proposal would generate adverse noise and traffic impact on the surrounding area; the proposal would cause harm to the surrounding environment; and approving the application would set an undesirable precedent leading to the general degradation of the surrounding area. Designing Hong Kong Limited also raised objection on similar grounds and also pointed out that a similar application (No. A/YL-TT/130) had previously been rejected by the Committee.

12. Planning Considerations and Assessments

12.1 The subject application is for temporary vehicle repair workshop for a period of 3

years at a site zoned “OU(RU)” on the OZP. The applied use is not in line with the planning intention of the “OU(RU)” zone which is primarily for the preservation of the character of the rural area and for uses or developments that are compatible with the rural landscape and which could upgrade or improve the area or provide support to the local communities. There is no justification given in the submission for a departure from the planning intention, even on a temporary basis.

- 12.2 Although the surrounding area comprises mainly open storage/storage yards, warehouses, vehicle repair workshops and parking of vehicles (**Plan A-2**), they are mostly suspected UD subject to enforcement action taken by the Planning Authority. The development is considered not compatible with the intended rural character of the vicinity, in particular, the village settlements and agricultural uses to its further east (**Plan A-1**).
- 12.3 The applied use is not in line with TPB PG-No. 38 in that there are adverse departmental comments on the application concerning landscape aspect. CTP/UD&L, PlanD has reservations on the proposal as the applied use would degrade the rural landscape character of the area. There is no assessment in the submission to demonstrate that the development would not generate adverse landscape impact on the surrounding areas.
- 12.4 The Site is the subject of two previous applications (No. A/YL-TT/115 and 130) for a different use (i.e. open storage/storage use) when the Site was zoned “AGR” on earlier versions of the OZP, both of which were either rejected by the Committee or the Board on review. Moreover, there is one similar application for temporary vehicle repair workshop use within the same “OU(RU)” zone, which was rejected by the Committee on the considerations that the proposed use did not conform with the planning intention of the “OU(RU)” zone; the applicant failed to demonstrate there was no adverse landscape impacts on the surrounding areas; and approving the application would set an undesirable precedent, amongst others. Such considerations are relevant to the current application. Approval of the application would set an undesirable precedent and attract similar applications within the area. The cumulative impact would result in the general degradation of the rural landscape character. Overall, rejecting the current application is considered in line with the Committee’s previous decisions.
- 12.5 There are four objecting public comments received on the application during the statutory publication period as summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.4 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12, and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:
 - (a) the proposed development is not in line with the planning intention of the “OU(RU)” zone which is primarily for the preservation of the character of the rural area. No justification has been given in the

submission to justify a departure from the planning intention, even on a temporary basis;

- (b) the applied use is not in line with the Town Planning Board Guidelines for 'Designation of "OU(RU)" Zone and Application for Development within "OU(RU)" Zone' (TPB PG-No. 38) in that there was insufficient information in the submission to demonstrate that the development would not generate adverse landscape impact on the surrounding areas; and
- (c) the approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the "OU(RU)" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

13.2 Alternatively, should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 4.10.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 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) only private cars and light goods vehicles not exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to enter/be parked 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 submission of a run in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 4.4.2020;
- (f) in relation to (e) above, the implementation of run in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 4.7.2020;
- (g) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.4.2020;

- (h) the submission of a 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 4.4.2020;
- (i) in relation to (h) above, the implementation of the 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 4.7.2020;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 4.4.2020;
- (l) in relation to (k) 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 4.7.2020;
- (m) if any of the above planning conditions (a), (b), (c), (d) or (j) 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
- (n) if any of the above planning conditions (e), (f), (g), (h), (i), (k) or (l) 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 VI**.

14. Decision Sought

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

15. Attachments

Appendix I	Application Form with plans received on 5.8.2019
Appendix Ia	Further Information received on 12.9.2019 providing clarification on traffic generation and vehicle access
Appendix Ib	Further Information received on 26.9.2019 providing clarification on the operation hours and operation
Appendix II	Relevant extract of the Town Planning Board Guidelines for 'Designation of "OU(RU)" Zone and Application for Development within "OU(RU)" Zone' (TPB PG-No. 38)
Appendix III	Previous Applications covering the Application Site
Appendix IV	Similar Application within the subject "OU(RU)" Zone on the OZP
Appendices V-1 to V-4	Public Comments Received During Statutory Publication Period
Appendix VI	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2019**