

RNTPC Paper No. A/YL-PH/773  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 6.4.2018

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

**APPLICATION NO. A/YL-PH/773**

<b><u>Applicant</u></b>	:	Right Lucro Industrial Limited represented by R-riches Property Consultants Limited
<b><u>Site</u></b>	:	Lots 2404, 2405, 2409 S.B RP and 2410 RP in D.D. 111 and Adjoining Government Land (GL), Pat Heung, Yuen Long
<b><u>Site Area</u></b>	:	About 1,386.8 m <sup>2</sup> (including 226 m <sup>2</sup> of GL)
<b><u>Lease</u></b>	:	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	:	“Open Storage” (“OS”)
<b><u>Application</u></b>	:	Proposed Temporary Wholesale Trade (Food) for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade (food) for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, ‘Wholesale Trade’ is a Column 2 use in “OS” zone, which requires planning permission from the Town Planning Board (the Board). The Site is subject of six previous applications for various open storage uses which (except one application) were all approved by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1994 and 1997. The Site is paved, fenced and vacant (**Plans A-2, A-4A and A-4b**).
- 1.2 According to the applicant, the proposed development comprises a single storey structure with total floor area of about 551.2m<sup>2</sup> and building height not exceeding 8.23m for wholesale trade (food) use. ~~One~~ **Two** loading/unloading spaces for light goods vehicle ~~and one loading/unloading space for medium/heavy goods vehicle~~ will be provided on site. The operation house is from 9am to 6pm Monday to Saturday and no operation on Sunday and public holidays. The site layout plan and landscape plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

1.3 In support of the application, the applicant has submitted the following:

- (a) Application form with planning justifications and plans (**Appendix I**) received on 14.2.2018
- (b) Further information (FI) received on 13.3.2018 in (**Appendix Ia**) responses to departmental comments  
*(accepted and exempted from publication and recounting requirements)*
- (c) ***FI received on 16.3.2018 in responses to (Appendix Ib) departmental comments(accepted and exempted from publication and recounting requirements)***
- (d) ~~(e)~~ FI received on 26.3.2018 in responses to departmental (**Appendix Ic~~b~~**) comments  
*(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 the appendix attached to the Application Form in **Appendices I to and Ic~~b~~**. They can be summarized as follows:

- (a) The proposed use involves wholesale trade (food) which is a Column 2 use of the “OS” zone. The Site is currently paved, fenced and vacant. The proposed development is compatible with the surrounding environment.
- (b) No car washing activities will take place on site. Loading/unloading spaces and sufficient maneuvering space will be provided on site and no vehicle will queue back to or reverse onto/from Fan Kam Road. Adverse traffic impact to Fan Kam Toad will be minimal.
- (c) The type of food for wholesale trade will be eggs. Pollution to the surrounding environmental is not anticipated.
- (d) The proposed structure with building height of about 8m is similar to the nearby small houses. Adverse impact on visual and feng shui aspects of the village is not anticipated.

## 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 posting notice of the application outside the Site and sending the notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

#### **4. Background**

The Site is currently not subject to any active enforcement case. Notwithstanding, if there are suspected unauthorized development found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the said use is an authorized development under the Town Planning Ordinance, appropriate enforcement action will be instigated.

#### **5. Previous Applications**

5.1 The Site is subject to six previous planning applications for various open storage uses. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.

5.2 Applications No. A/DPA/YL-PH/26 and 32, A/YL-PH/57, 106 and 147 for open storage of timber or vehicles (the former two under the then “U” zone) were approved with conditions by the Committee or the Board on review on 24.6.1994, 17.6.1994, 18.10.1996, 8.8.1997 and 5.12.1997 respectively on similar considerations that the proposed uses were compatible with the surrounding open storage uses; and no adverse comments from relevant government departments and/or from locals.

5.3 Application No. A/DPA/YL-PH/27 for open storage of vehicles (under the then “U” zone) was rejected by the Committee on 4.2.1994 mainly on the grounds that the proposed development was not in line with the planning intention; insufficient information on parking and loading/unloading facilities in the submission; the vehicular access is not acceptable; and no submission of landscaping proposal.

#### **6. Similar Application**

There is no similar application within the same “OS” zone on the OZP.

#### **7. The Site and Its Surrounding Areas (Plans A-1a and A-2 to A-4b)**

7.1 The Site is:

- (a) paved, fenced and vacant with a temporary structure; and
- (b) accessible from Fan Kam Road at its east (**Plan A-2**).

7.2 The surrounding areas are predominately rural in character mixed with open storage yards, scattered residential dwellings/structures and vacant/unused land (**Plan A-2**):

- (a) to its immediate north is unused land, further north across Wan Toi Shan Tsuen Road is predominately various open storage yards and vacant/unused land;
- (b) to its east across Fan Kam Road under the “Village Type Development”

zone are residential dwellings/structures (about 30m away) and unused/vacant land; and

- (c) to its south and southwest are open storage yards and vehicle repair workshop.

## **8. Planning Intention**

The planning intention of the “OS” 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.

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

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

### **Land Administration**

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

- (a) The Site comprises Old Schedule Agricultural Lots held under 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 Government Land (GL) (about 226m<sup>2</sup> 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.
- (c) The Site is accessible to Fan Kam Road via 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 does not falls within Shek Kong Airfield Height Restriction Area (SKAHRA).
- (e) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application 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**

- 9.1.2 Comments of the Commissioner for Transport (C for T):
- (a) He has no comment on the application from traffic engineering point of view.
  - (b) Should the application be approved, the following approval conditions should be included:
    - (i) No vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period.
    - (ii) No vehicle is allowed to make left turn from the Site to the public road at any time during the planning approval period.
- 9.1.3 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 Fan Kam 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 flowing from the Site to nearby public roads and drains.

## **Environment**

- 9.1.4 Comments of the Director of Environmental Protection (DEP):
- (a) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”, he does not support the application as there are sensitive receivers, i.e. residential structures located to its east (the nearest about 30m away) (**Plan A-2**) and in the vicinity of the Site, and environmental nuisance is expected.
  - (b) 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 the DEP.

### **Landscape**

- 9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) Should the application be approved, approval conditions on the submission and implementation of the landscape proposal should be included.
  - (b) Detailed comments on the submitted landscape proposal are at **Appendix III**.

### **Drainage**

- 9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no objection in principle to the development from the public drainage point of view.
  - (b) Should the application be approved, approval conditions requiring the submission and implementation of the drainage proposal for the development to the satisfaction the Director of Drainage Services or of the Board should be included.

### **Water Supply**

- 9.1.7 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. A Waterworks Reserve within 1.5m from the centreline of the water mains shown in **Plan A-2** shall be provided to WSD. No structure shall be erected over this Waterworks Reserve and such area shall not be used for storage or car-parking purpose.
  - (c) The Water Authority and his officer 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 construction, inspection, operation, maintenance and repair works. All other services across, through or under the Waterworks Reserve are required to seek authorization from the Water Authority.
  - (d) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2**.
  - (e) The developer shall bear the cost of any necessary diversion works affected by the proposed development.

- (f) 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.

### **Fire Safety**

#### 9.1.8 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 IV**).
- (c) Having considered the nature of the proposal, 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) to his office for 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.

### **Electricity**

#### 9.1.9 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) However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing 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.

### **Building Matters**

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

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BD, they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (b) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (c) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (d) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (e) 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.

### **Environmental Hygiene**

9.1.11 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) If any Food and Environmental Hygiene Department's (FEHD's) facility is affected by the development, FEHD's prior consent must be obtained. Reprovisioning of the affected facilities by the project proponent up to the satisfaction of FEHD may be required. Besides, the project proponent should provide sufficient amount of additional recurrent cost for management and maintenance of the reprovisioned facilities to FEHD.
- (b) If FEHD is requested to take up management responsibility of new public toilets and refuse collection points, FEHD should be separately consulted. Prior consent from FEHD must be obtained and sufficient amount of recurrent cost must be provided.



- (c) If provision of cleansing service for new roads, streets, cycle tracks, footpaths, paved areas etc., is required, FEHD should be separately consulted. Prior consent from FEHD must be obtained and sufficient amount of recurrent cost must be provided.
- (d) Proper licence/ permit issued by FEHD is required if there is any food business / catering service / activities regulated by the DFEH under the Public Health and Municipal Services Ordinance (Cap. 132) and other relevant legislation for the public and the operation of any business should not cause any obstruction.
- (e) If the proposal involves any commercial/trading activities, no environmental nuisance should be generated to the surroundings. Also, for any waste generated from the commercial/trading activities, the applicant should handle on their own/at their expenses.

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

9.1.12 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 also has no particular comment on the application.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Commissioner of Police (C of P);and
- (c) Director of Agriculture, Fisheries and Conservation (DAFC).

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

10.1 On 23.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 16.3.2018, two public comments from villagers of Wang Toi Shan Shan Tsuen and a general public were received (**Appendices V-1 and V-2**).

10.2 The commenters object the application mainly on the reasons that the Site is location close to Wang Toi Shan Shan Tsuen and will disturb the living and create nuisance to the residents; the proposed food related use will pollute the nearby environment; induce heavy traffic; and affect 'feng shui' of the village.

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

11.1 The application is for proposed temporary wholesale trade (food) at the Site which is zoned "OS" on the OZP. The planning intention of the "OS" zone is primarily intended 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. In this regard, the proposed use is considered not in conflict with the planning intention and approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “OS” zone.

- 11.2 The Site is abutting Fan Kam Road. The proposed development is not incompatible with the uses in the surrounding area which is mixed with open storage yards, workshop, residential dwellings/structures and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, DLO/YL of LandsD, CHE/NTW of HyD, D of FS, CE/MN of DSD and C of P have no adverse comment on the application. However, DEP does not support the application as there are sensitive receivers of residential use located to its east (the nearest about 30m away) and in the vicinity and environmental nuisance is expected. In this regard, all the nearby residential dwellings/structures are separated from the Site by Fan Kam Road and unused land (**Plan A-2**). Also, relevant approval conditions with restrictions on operation hours and maintain the existing fencing are recommended in paragraph 12.2 (a) and (c) to address the concerns on the possible environmental nuisances generated by the proposed temporary use. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to alleviate any potential impact. The technical requirements of C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (d) to (m) below.
- 11.4 Two public comments objecting to the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the planning considerations and assessments are also relevant.

## 12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10 above, the Planning Department considers that the proposed temporary wholesale trade (food) could be tolerated for a period of 3 years.
- 12.2 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 6.4.2021. 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 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) the existing boundary fencing on the Site shall be maintained at all times 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) no vehicle is allowed to make left turn from the Site to the public road at any time during the planning approval period;
- (f) *no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractor/trailer, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/exit the Site at any time during the planning approval period;***
- (g) ~~(g)~~ the submission of landscape proposal within 6 months from the date of the planning approval to the satisfaction of the Director of Planning or the Town Planning Board by 6.10.2018;
- (h) ~~(g)~~ in relation to (g) ~~(g)~~ above, the implementation of the landscape proposal within 9 months from the date of planning approval to the satisfaction of the Director of Planning or the Town Planning Board by 6.1.2019;
- (i) ~~(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 6.10.2018;
- (j) ~~(i)~~ in relation to (i) ~~(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 6.1.2019;
- (k) ~~(j)~~ the provision of fire extinguisher(s) with a valid fire certificate (FS 251) 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 18.5.2018;
- (l) ~~(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 6.10.2018;
- (m) ~~(l)~~ in relation to (l) ~~(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 6.1.2019;
- (n) ~~(m)~~ if any of the above planning conditions (a), (b), (c), (d), ~~(e)~~ **or (f)** 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
- (o) ~~(n)~~ if any of the above planning conditions ~~(f)~~, (g), (h), (i), (j), (k), ~~(l)~~ **or (m)** 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 at **Appendix VI**.

12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members’ reference:

the applicant fails to demonstrate that the development would not generate environmental nuisance to the surrounding areas of the Site.

**13. Decision Sought**

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.

13.2 Should the Committee decide to 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.

13.3 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.

**14. Attachments**

- Appendix I** Application form with planning justifications and plans received on 14.2.2018
- Appendix Ia** FI received on 13.3.2018
- Appendix Ib** *FI received on 16.3.2018*
- Appendix Ic** FI received on 26.3.2018
- Appendix II** Previous applications covering the application site
- Appendix III** Detailed comments from CTP/UD&L of PlanD
- Appendix IV** Good Practice Guidelines for Open Storage Sites
- Appendices V-1 and V-2** Public comments received during the statutory publication period
- Appendix VI** Advisory Clauses
- Drawing A-1** Layout Plan
- Drawing A-2** Landscape Plan
- Plan A-1a** Location Plan
- Plan A-1b** Previous applications Plan
- Plan A-2** Site Plan

**Plan A-3**                      Aerial Photo

**Plans A-4a and A-4b**      Site Photos

**PLANNING DEPARTMENT  
APRIL 2018**