

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/804

<u>Applicant</u>	:	Ha Che Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 872, 873, 875, 876, 877, 878, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891 (Part), 892 (Part), 893 (Part), 3049 and 3050 in D.D. 111, and Adjoining Government Land (GL), Pat Heung, Yuen Long
<u>Site Area</u>	:	About 21,006 m ² (including about 1,599 m ² (8%) of GL)
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<u>Zoning</u>	:	“Open Storage” (“OS”)
<u>Application</u>	:	Proposed Temporary Wholesale Trade (Food) for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade (food) for a period of 5 years at the application site (the Site) (**Plan A-1a**). According to the Notes of the OZP for the “OS” zone, ‘Wholesale Trade’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is mostly vacant and covered with vegetation while the northern part of the Site is occupied by parking of vehicles and trailers without valid planning permission (**Plans A-2 to A-4b**). The northern part of the Site is the subject of four previous applications for various open storage uses/ pond filling for open storage use which were all approved by the Rural and New Town Planning Committee (the Committee) between 1997 and 1999.
- 1.2 According to the applicant, the proposed development comprises two single storey structures (building height of about 15m) with a total floor area/ covered area of about 15,916m² (about 76% of the site area) for wholesale trade use. 8 loading/unloading spaces for container vehicles will be provided within the Site. The operation hours are from 10 a.m. to 5 p.m. daily. No manufacturing, retail and workshop activities will be carried out at the Site. The Site is accessible via a local track leading from Fan Kam

Road. The site layout plan and vehicular access 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 supplementary statement and plans received on 27.2.2019 (**Appendix I**)
- (b) Supplementary Information (SI) submitted on 4.3.2019 clarifying the operational details of the proposed development (**Appendix Ia**)
- (c) SI submitted on 6.3.2019 providing a Geotechnical Planning Review Report (**Appendix Ib**)
- (d) Further information (FI) received on 22.3.2019 in response to departmental comments (**Appendix Ic**)
- (e) FI received on 8.4.2019 in response to departmental comments (**Appendix Id**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement attached to the Application Form, SIs and FIs in **Appendices I to Id**. They can be summarized as follows:

- (a) The proposed development is compatible with the surrounding land uses. The applicant is an operator of wholesale trade. The proposed development will provide packaged food including snacks and dried seafood to retailers. Goods will be stored vertically on pallet racks and movement of goods within the structures will be carried out by robotic machines.
- (b) As higher headroom space of the structures can allow storage of more goods and reserve space for fire service installations (FSIs), the building height of the structures is reasonable.
- (c) Loading/unloading spaces and sufficient maneuvering space will be provided on site and no vehicle will queue back to or reverse onto/from areas outside the Site. No parking space will be provided to the staff who will take public transport and walk to the Site. Adverse traffic impact to the surrounding area will be minimal.
- (d) No car washing or maintenance activities and no parking of vehicles at night will be allowed within the Site to minimize environmental impact to the surrounding area.
- (e) Upon approval of the planning application, the applicant will make effort in complying with approval conditions/ relevant government regulations related to fire safety, drainage, sewerage and landscape aspects.
- (f) A minimum of 4m buffer area will be provided along the western boundary for

landscape planting and preservation of existing trees. Trees on GL will be preserved as far as possible. Mitigation measures will also be provided to avoid causing pollution to the nearby streamcourses.

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 publishing notice in newspapers 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 a subject to any outstanding enforcement case.

5. **Previous Applications**

5.1 The northern part of the Site is subject to four previous planning applications for various open storage uses (Applications No. A/YL-PH/133, 142 and 249) and pond filling for open storage use (Application No. A/YL-PH/276). 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/YL-PH/133 and 249 for temporary open storage of wrecked vehicles (cars and vans) for import/export with cargo handling operation at the northern part of the Site (zoned “OS” and “Green Belt” (“GB”) on the previous OZP¹) were approved with conditions by the Committee on 7.11.1997 and 11.12.1998 respectively for 12 months for similar reasons that the development was in line with the planning intention of the “OS” zone and the part falling within “GB” zone was zoned “OS” on previous plans; it was in line with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”; it was compatible with the surrounding uses; there were previous/similar applications approved by the Committee; and there was an acute shortage of open storage sites.

5.3 Application No. A/YL-PH/142 for open storage of construction machinery² for re-export with ancillary workshop was approved with conditions by the Committee on 21.11.1997 for the reasons that the development was in line with the planning intention of the “OS” zone; it was in line with the Town Planning

¹ The northern part of the Site was rezoned from “GB” to “OS” on the draft Pat Heung OZP No. S/YL-PH/5 gazetted on 15.10.1999.

² According to the draft Pat Heung OZP No. S/YL-PH/1 in force at that time, “storage of machinery” was a Column 2 use in “OS” zone which required planning permission. The Notes of the “OS” zone was subsequently revised in the draft Pat Heung OZP No. S/YL-PH/7 gazetted on 24.12.2003, where open storage of such use is always permitted in the “OS” zone.

Board Guidelines for “Application for Open Storage and Port Back-up Uses”; it was compatible with the surrounding uses; and there was no local objection or adverse comment from the relevant departments.

- 5.4 Application No. A/YL-PH/276 for pond filling³ for open storage use was approved with conditions by the Committee on 14.5.1999 for the reasons that the development was in line with the planning intention of the “OS” zone; it was compatible with the surrounding uses; the pond was unlikely to be retained for agricultural activities; and there was no adverse comment from the relevant departments.

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) mostly vacant and covered with vegetation while the northern part of the Site is occupied by parking of vehicles and trailers without valid planning permission; and
- (b) accessible via a local track leading from Fan Kam Road (**Plan A-2**).

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

- (a) to its north and east within the same “OS” zone are various open storage/storage yards, workshops, container trailers/tractors park (with planning permission under Application No. A/YL-PH/748) and vacant/unused land. Further north are unused land falling within the “GB” and “Conversation Area” (“CA”) zones;
- (b) to its south, southwest and southeast are an area zoned “Village Type Development” (“V”) with an open storage yard which is a suspected unauthorised development subject to enforcement action by the Planning Authority, scattered residential dwellings/structures (the nearest is about 30m away) and vacant/unused land; and
- (c) to its west is unused land covered with vegetation under “GB” zone.

³ According to the draft Pat Heung OZP No. S/YL-PH/3 in force at that time, the Notes of the “OS” zone stated that filling of pond required planning permission. The Notes of the “OS” zone was subsequently revised to delete the restriction on filling of pond in the draft Pat Heung OZP No. S/YL-PH/7 gazetted on 24.12.2003.

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 GL and Old Schedule Agricultural Lots 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 1,599m² 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) A small portion of the Site falls within Burial Ground No. YL/19.
- (d) The Site is accessible from Fan Kam Road via GL and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (e) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (f) Should planning approval be given to the planning application, the lot(s) owner(s) 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval which excludes the GL portion falling within the burial ground prior to the actual occupation of the GL. 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 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 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.

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

- (a) His department does not and will not maintain the accesses 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

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 the proposed use will cause traffic of heavy vehicles and there are sensitive receivers, i.e. residential structures located to its south (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 EPD.

Drainage

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

- (a) He has no in-principle objection to the proposed development.
- (b) Should the application be approved, approval conditions requiring the submission and implementation of a drainage proposal for the development should be included.

Nature Conservation

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

- (a) He has no strong view against the application from nature conservation perspective provided that necessary measures would be taken to avoid causing impacts to the surrounding environment (e.g. avoiding damage to the vegetated areas on GL, disturbance and pollution to watercourses near the Site).
- (b) Upon the previous site visit in November 2018 and according to aerial photos, the Site was partially disturbed. Nevertheless, the western boundary of the Site is abutting an area which was found to be a vegetated area covered by young trees of both native and exotic species. The vegetated area on GL located at/near the western boundary of the Site should be properly preserved by implementing appropriate measures (e.g. adequate set-backs of structures from the wooded areas, designating buffer areas, robust boundary hoardings, etc.) during the development and operation of the development. On the other hand, the applicant shall also take necessary measures to avoid causing pollution to nearby streamcourses and avoid causing damage to trees on GL near the Site during the development and operation.

Fire Safety

9.1.7 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 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

- 9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):
- (a) Before any new building works (including containers and open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of 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.
 - (b) If the structures (not being New Territories Exempted House) are erected on leased land without approval of BD, they are UBW under the BO and should not be designated for any use under application.
 - (c) 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 the 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.

District Officer's Comments

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

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application .

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

- (a) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (b) Project Manager/West, Civil Engineering and Development Department

- (PM/W, CEDD);
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 8.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 29.3.2019, no public comment has been received.

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. The proposed use mainly involves storage of food for supply to retailers. While the proposed use is not entirely in line with the planning intention of the zone, it is not incompatible with the intended uses in the zone. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “OS” zone.
- 11.2 The proposed development involving the erection of two single-storey structures of 15m in height is not incompatible with the surrounding area which is mixed with open storage/storage yards, workshops, container trailers/tractors park, parking of vehicles and trailers, scattered residential dwellings/structures and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, CHE/NTW of HyD, D of FS and CE/MN of DSD have no adverse comment on the application. However, DEP does not support the application as the proposed use will cause traffic of heavy vehicles and there are sensitive receivers of residential use located to its south (the nearest about 30m away) and in the vicinity and environmental nuisance is expected. In this regard, it should be noted that vehicular access to the Site from Fan Kam Road will be via the “OS” zone and will not pass through the residential dwellings/structures in the south. To minimize any possible environmental nuisances generated by the proposed temporary use, an approval condition with restriction on operation hours is recommended in paragraph 12.2 (a) below. 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 latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (b) to (f) below.
- 11.4 No public comment was received during the statutory publication period.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the proposed temporary wholesale trade (food) for a period of 5 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 5 years until 12.4.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of 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 12.10.2019;
- (d) in relation to (c) above, the implementation of 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 12.1.2020;
- (e) the submission of 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 12.10.2019;
- (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 12.1.2020;
- (g) if any of the above planning conditions (a) or (b) 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 conditions (c), (d), (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 at **Appendix III**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the 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. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the proposed development at the Site would not generate environmental nuisance to the surrounding areas.

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 supplementary statement and plans received on 27.2.2019
Appendix Ia	SI submitted on 4.3.2019
Appendix Ib	SI submitted on 6.3.2019
Appendix Ic	FI received on 22.3.2019
Appendix Id	FI received on 8.4.2019
Appendix II	Previous applications covering the application site
Appendix III	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access 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 2019**