

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1107

- Applicant** : Excel Hong Kong Development Limited represented by WONG Sun-wo William
- Site** : Lots 142 (Part), 143 (Part), 158 (Part) and 160 (Part) in D.D.128, Fung Kong Tsuen, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 2,200 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m).]
- Application** : Temporary Recyclable Collection Centre for Garment, Cloth and Waste Paper 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 recyclable collection centre for garment, cloth and waste paper for a period of 3 years. The Site falls within an area zoned “Residential (Group D)” (“R(D)”) on the Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12 (**Plan A-1**). According to the Notes of “R(D)” zone, ‘Recyclable Collection Centre’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site involves 3 previous applications for temporary open storage and temporary recyclable collection centre uses (**Plan A-1**). The last two applications (No. A/YL-HTF/1085 and 1099) for the same use by a different applicant were approved by the Rural and New Town Planning Committee (the Committee) on 4.5.2018 and 13.12.2019 respectively. The planning permissions were revoked on 4.8.2019 and 13.3.2020 respectively due to non-compliance with time-limited approval conditions on drainage and fire safety aspects.

- 1.3 Compared with the last application, the current application was submitted by a different applicant for the same use on a smaller site with slightly different parameters and layout. Details are as follows:

Major Development Parameters	Previously Approved Application No. A/YL-HTF/1099 (a)	Current Application No. A/YL-HTF/1107 (b)	Difference (b) – (a)
Applied Use	Temporary Recyclable Collection Centre for Garment, Cloth and Waste Paper for a Period of 3 Years		No change
Site Area	about 2,890 m ²	about 2,200 m ²	-690 m ²
Total Floor Area (Non-domestic)	about 852 m ²	about 1,090 m ²	+238 m ²
No. of Structures	2 (1 recyclable collection centre, 1 office and toilet)	3 (1 recyclable collection, 1 office and 1 toilet)	+1
Height of Structures	2.4m - 4.5m	3m – 6m	+1.5 m
Loading/ Unloading Space	3 for Light Goods Vehicle		No change
Operation Hours	8 am to 6 pm from Mondays to Saturdays and no operation on Sundays and public holidays		No change

- 1.4 The Site is accessible via a local track to Kai Pak Ling Road (**Plans A-2 and A-3**). The proposed layout plan, landscape plan, drainage plan and proposed fire service installation plan are shown at **Drawings A-1 to A-4** respectively.

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

- (a) Application Form received on 17.7.2020 with layout plan, (**Appendix I**) landscape plan and drainage plan
- (b) Further Information (FI) dated 13.8.2020 responding to Transport Department's comment (**Appendix Ia**)
[exempted from publication requirements]
- (c) FI dated 26.8.2020 with proposed fire service installations (FSIs) proposal and providing information about the licensed recycling operator of the Environmental Protection Department (EPD) (**Appendix Ib**)
[exempted from publication requirements]

2. Justifications from the Applicant

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

- (a) Previous planning approval was obtained for recyclable collection centre at the Site. Due to the pandemic and bad business environment, the previous applicant was

forced to close down the business. Therefore, he did not apply for extension of time for the compliance of approval conditions and failed to comply with the approval conditions leading to revocation of the planning approval.

- (b) The applicant claims to be an operating licensed recycling operator of the EPD at another premises.

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 sending notice to the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any enforcement action.

5. Previous Applications

- 5.1 The Site involves three previous applications (No. A/YL-HT/137, A/YL-HTF/1085 and 1099) for open storage and recyclable collection centre uses. Details of the applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.
- 5.2 The Site forms part of planning application No. A/YL-HT/137 for temporary open storage of construction machinery and construction material for a period of 3 years which was rejected by the Committee on 31.3.2000 for the reasons of not in line with the planning intention of the “R(D)” zone, adverse traffic, environmental and drainage impacts on the surrounding areas, and setting an undesirable precedent for similar applications.
- 5.3 Applications No. A/YL-HTF/1085 and 1099 for recyclable collection centre use covering the same site were approved by the Committee on 4.5.2018 and 13.12.2019 respectively. However, both planning permissions were revoked on 4.8.2019 and 13.3.2020 respectively due to non-compliance with time-limited approval conditions on drainage and fire safety aspects.
- 5.4 Compared with the last application (No. A/YL-HTF/1099), the current application was submitted by a different applicant for the same use on a smaller site with slightly different development parameters and layout.

6. Similar Applications

- 6.1 There are three similar applications (Nos. A/YL-HTF/1093, 1096 and 1101) for recycling workshop and centre uses within the same “R(D)” zone on the OZP. Details of these applications are summarized at **Appendix III** and the locations of these application sites are shown on **Plan A-1**.

- 6.2 The sites of applications No. A/YL-HTF/1093 and 1096 are located mainly within the adjoining “AGR” zone with a minor portion in the same “R(D)” zone. Both applications for proposed temporary plastic bottle recycling centre with workshop and ancillary office for a period of 3 years were rejected by the Committee on 1.2.2019 and 20.9.2019 respectively. The rejection reasons include the proposed development was not in line with the planning intentions of the “AGR” and “R(D)” zones; the development would generate adverse traffic and environmental impacts; and approval of application would set an undesirable precedent for similar applications.
- 6.3 Application No. A/YL-HTF/1101 for proposed temporary recyclable collection centre for metal and garment was approved with conditions by the Committee on 17.1.2020 for a period of 3 years. The planning permission was revoked on 17.7.2020 due to non-compliance with approval conditions on the drainage and fire safety aspects.

7. The Site and Its Surrounding Areas (Plan A-2 to Plans A-4b)

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission; and
- (b) accessible via a local track from Kai Pak Ling Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its north are godowns, workshops, open storage yards of construction materials and recycling materials which are suspected unauthorised development (UD);
- (b) to its east is a godown and scrubland;
- (c) to its south are godowns, open storage yards of construction machinery which are suspected UD; and
- (d) to its west are open storage yards of construction materials, recycling materials, and construction machinery which are suspected UD.

8. Planning Intention

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application and public comments 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 the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lots No. 142, 143 and 158 are covered by Short Term Waiver (STW) No. 5013 for temporary recyclable collection centre for garment, cloth and waste paper.
- (c) Should planning approval be given to the planning application, the lot owner(s) of the lot(s) without STW will need to apply to his office for permitting the structures to be erected or regularize any irregularities on site, if any. The STW holder will need to apply to his office for modification of the STW conditions where appropriate. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of 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 premium or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site are not under Transport Department's (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using them as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads/drains.

- (c) HyD shall not be responsible for the maintenance of any access connecting to the Site.

Environment

9.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) DEP has no adverse comment on the application.
- (b) The applicant is advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the DEP to minimize potential environmental nuisance to the surrounding area.
- (c) There is no complaint pertaining to the Site received in the past 3 years.

Landscape

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

- (a) The Site is subject to a previous application (No. A/YL-HTF/1099) for recyclable collection centre use, which was revoked due to non-compliance with approval conditions not related to landscape matters. The current application seeks planning permission for the same use on a smaller site.
- (b) With reference to the aerial photo of 2019, the Site is hard paved with existing trees within the Site along the northern boundary. The Site is situated in an area of rural landscape character predominated by open storage yards, temporary structures and tree groups. Significant landscape impact arising from the application is not envisaged.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):

- (a) He has no objection in principle to the proposed application from a drainage point of view.
- (b) Should the Board consider that the application is acceptable from planning point of view, he would suggest a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and to maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.
- (c) Detailed comments are at **Appendix V**.

Building Matters

9.1.7 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 BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the captioned application.
- (b) For UBW erected on leased land, enforcement action may be taken by the Buildings Department (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 application site under the BO.
- (c) 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 Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with 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.

Fire Safety

9.1.8 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 (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.
- (c) The layout plans 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.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comments

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

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

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Antiquities and Monuments Office, Development Bureau (AMO, DEVB);
- (c) Project Manager/West, Civil Engineering and Development Department (PM/W, CEDD);
- (d) Chief Engineer/Land Works, CEDD (CE/LW, CEDD)
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Leisure, Cultural and Services (DLCS);
- (g) Commissioner of Police (C of P); and
- (h) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

10. Public Comments Received During Statutory Publication Period

On 24.7.2020, the application was published for public inspection. During the statutory public inspection period, three public comments from two individuals (**Appendix IV-1 to IV-3**) were received objecting to the application on the following grounds:

- (a) the development causes adverse traffic impact to the surrounding areas;
- (b) the development is not in line with the planning intention of "R(D)" zone; and
- (c) the application is the subject of previously revoked approved application. The applicant failed to comply with approved conditions in the drainage and fire safety aspects.

11. Planning Considerations and Assessments

11.1 The application is for temporary recyclable collection centre for garment, cloth and waste paper for a period of 3 years at the Site zoned "R(D)" on the OZP. The planning intention of "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the development is not entirely in line with the planning intention of the "R(D)" zone, there is no known development for the Site in the subject "R(D)" zone. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site.

11.2 The Site is located in an area predominantly occupied by warehouse, workshops, godowns and different types of open storage uses. The applied use is considered not incompatible with the surrounding areas.

- 11.3 The applied use would not cause significant adverse traffic, environmental, drainage and landscape impacts on the surrounding areas. Relevant Government departments including C for T, DEP, CE/MN, DSD and CTP/UD&L, PlanD have no adverse comment on/objection to the application. To address the technical concerns of concerned Government departments and to minimize any potential nuisance, appropriate approval conditions are recommended in paragraph 12.2 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.
- 11.4 Two previous applications (No. A/YL-HTF/1085 and 1099) for the same use were approved by the Committee on 4.5.2018 and 13.12.2019 respectively but the permissions were revoked due to non-compliance with approval conditions on drainage and fire safety aspects. For the current application, it was submitted by a different applicant on a smaller site with slightly different development parameters and layout. The applicant has submitted drainage and FSIs proposals (**Drawings A-2 and A-4**). Both CE/MN of DSD and D of FS have no objection to the application. In view of the above, the applicant has demonstrated effort to fulfill the requirements on drainage and fire safety aspects. Sympathetic consideration may be given to the current application. Nevertheless, shorter compliance periods are recommended in order to closely monitor the progress of compliance with approval conditions. Should the application be approved, the applicant should be advised that should he fail to comply with any of the approval conditions again resulting in the revocation of planning permission, sympathetic consideration would not be given to any further application.
- 11.5 Three public comments were received for the application. The planning assessments and considerations in the paragraphs 11.1 to 11.4 are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department has no objection to the application for the temporary recyclable collection centre for garment, cloth and waste paper 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 **4.9.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 6p.m. to 8a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicle exceeding 5.5 tonnes is allowed to enter / exit or to be parked / stored on the Site at any time during the planning approval period;

- (d) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (e) the submission of the revised drainage proposal within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **4.12.2020**;
- (f) in relation to (e) above, the implementation of the 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 **4.3.2021**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (i) the submission of a revised fire service installations proposal within **3** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **4.12.2020**;
- (j) in relation to (i) above, the implementation of the revised fire service installations proposal within **6** months from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **4.3.2021**;
- (k) if any of the above planning conditions (a), (b), (c), (d), (g) or (h) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (l) if any of the above planning conditions (e), (f), (i) or (j) is not complied with by the above 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 V**.

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

the applied use is not in line with the planning intention of the "R(D)" zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

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 received on 17.7.2020 with layout plan, landscape plan and drainage plan
Appendix Ia	FI dated 13.8.2020 responding to Transport Department's comment
Appendix Ib	FI dated 26.8.2020 with proposed FSIs proposal and providing information about the licensed recycling operator of EPD
Appendix II	Previous Applications covering the Site
Appendix III	Similar Applications within the same "R(D)" zone
Appendix IV-1 to IV-3	Public Comments
Appendix V	Advisory Clauses
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Landscape Plan
Drawing A-3	Proposed Drainage Plan
Drawing A-4	Proposed Fire Service Installation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2020**