

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1108

- Applicant** : Hing Wai International Trading Limited represented by WONG Sun-wo William
- Site** : Lot 136 (Part) in D.D.128, Fung Kong Tsuen, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 1,850 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 Plastic Recycling Centre with Workshop and Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary plastic recycling centre with workshop and ancillary office for a period of 3 years. The Site falls within an area zoned “R(D)” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years within the zones 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 used for the applied use without valid planning permission (**Plans A-2 and A-4a to 4b**). There is no previous application at the Site.
- 1.2 The Site is accessible via a local track to Kai Pak Ling Road and Fung Kong Tsuen Road (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, there are three temporary structures with a total floor area of about 560 m² and building height of 5m to 8m for plastic breakdown workshop, plastic pellet-making workshop, office cum staff rest room uses. There are one private car parking space and one medium goods vehicle loading/unloading space. According to the applicant, the operation hours are from 7 am to 7 pm from Mondays to Saturdays

and there is no operation on Sundays and public holidays. The proposed layout plan is shown at **Drawing A-1**.

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

- (a) Application Form with attachments received on 5.8.2020 (**Appendix I**)
- (b) Further Information (FI) received on 31.8.2020 providing estimated trip generation and attraction for the development (**Appendix Ia**)

1.4 On 18.9.2020, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow time for addressing the concerns raised by the public. Since the last deferment for two months agreed by the Committee on 18.9.2020, the applicant did not submit further information for the application. Hence, the application is submitted for consideration at this meeting.

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) The applicant has operated the recycling centre at the Site for many years. Unfortunately, the recycling centre was burnt down without insurance.
- (b) The applicant would like to obtain planning permission for the recycling centre and to properly insure the recycling centre.

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 registered post to the land owner. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site would be subject to planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

6.1 There are six similar applications (No. A/YL-HTF/1085, 1093, 1096, 1099, 1101 and 1107) involving three sites for various temporary recycling centre uses within the same "R(D)" zone on the OZP. Four of them were approved with conditions by the Committee while the remaining two were rejected. Details of these

applications are summarized at **Appendix II** and the locations of these application sites are shown on **Plan A-1**.

Approved Applications

- 6.2 Applications No. A/YL-HTF/1085, 1099 and 1107 covering largely the same site for temporary recyclable collection centre for garment, cloth and waste paper use (involving the use of light goods vehicles and without workshop activities) for a period of 3 years each were approved by the Committee between 2018 and 2020 mainly on the grounds that the development was not incompatible with the surrounding areas and there were no adverse traffic, environmental, drainage and landscape impacts on the surroundings. The planning permissions of applications No. A/YL-HTF/1085 and 1099 were subsequently revoked on 4.8.2019 and 13.3.2020 respectively due to non-compliance with approval conditions on drainage and fire safety aspects.
- 6.3 Application No. A/YL-HTF/1101 for proposed temporary recyclable collection centre for metal and garment (involving the use of light goods vehicles and without workshop activities) for a period of 3 years was approved by the Committee on 17.1.2020 on similar grounds as mentioned in paragraph 6.2 above. The planning permission was subsequently revoked on 17.7.2020 due to non-compliance with approval conditions on drainage and fire safety aspects.

Rejected Applications

- 6.4 Applications No. A/YL-HTF/1093 and 1096 fell mainly within the adjoining "Agriculture" ("AGR") zone with a minor portion in the same "R(D)" zone on the same site. Both applications for proposed temporary plastic bottle recycling centre with workshop and ancillary office (involving the use of medium goods vehicles and workshop activities) for a period of 3 years were rejected by the Committee on 1.2.2019 and 20.9.2019 respectively. The rejection reasons included the proposed development was not in line with the planning intentions of the "AGR" and "R(D)" zones; the applicants failed to demonstrate no adverse traffic and / or environmental impacts; and approval of application would set an undesirable precedent for similar applications.

7. The Site and Its Surrounding Areas (Plan A-2 to Plans A-4a and 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 and Fung Kong Tsuen Road (**Plans A-2 and A-3**).
- 7.2 The surrounding areas have the following characteristics:
- (a) to its north and west are open storage yards for construction materials and recycling materials which are suspected unauthorized developments (UD);
 - (b) to its east is a recyclable collection centre for garment, cloth and waste paper with valid planning permission; and

- (c) to its south are graves and a warehouse which is a suspected UD. To its southwest about 70m is a residential structure.

8. Planning Intention

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 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) Should planning approval be given to the planning application, the lot owner(s) of the lot(s) will need to apply to his office for permitting 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. 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 is not under Transport Department’s (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it 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 nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Fung Kong Tsuen Road.

Environment

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

- (a) DEP does not support the application as the application involves the use of medium goods vehicle and there are sensitive receivers of residential use in the vicinity (with the nearest one situated about 70 m to its southwest) (**Plan A-2**) and environmental nuisance is expected.
- (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 are one substantiated air pollution and one non-substantiated air pollution complaints 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 located to the east of Deep Bay Road lies in an area of “R(D)” zone. The Site is not subject to any previous planning permission for temporary plastic recycling centre use for a period of 3 years.
- (b) With reference to aerial photo of 2019, the Site is hard paved and without any existing vegetation within the Site. The Site is observed to be used as an open storage yard. The Site is situated in an area of rural landscape character predominated by open storage yards, temporary structures and scattered tree groups. In view of other similar uses in the vicinity, significant landscape impact arising from the application is not envisaged.

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 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 drainage proposal, to implement and to maintain the proposed drainage facilities to the satisfaction of the Director of Drainage Services or of the Board.

Building Matters

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

- (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) The applicant should be reminded of the detailed comments at **Appendix VI**.

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. The applicant should note his detailed comments on the submission of FSIs proposal at **Appendix IV**.

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.

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

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

10. Public Comments Received During Statutory Publication Period

On 14.8.2020, the application was published for public inspection. During the statutory public inspection period, four public comments from the Chairman of the Yuen Long District Council and two individuals (one of the individuals submitted two public comments) (**Appendices III-1 to III-4**) were received objecting to the application on the following grounds:

- (a) the development is not in line with the planning intention of the “R(D)” zone;
- (b) the development may involve plastic melting which would cause nuisance to the surrounding area; and
- (c) the development would cause adverse traffic impact to the surroundings.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary plastic recycling centre with workshop and ancillary office for a period of 3 years at the Site zoned “R(D)” on the OZP. 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. The applied use is not in line with the planning intention of the “R(D)” zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.
- 11.2 The Site is located in an area predominantly occupied by warehouses and open storage uses. The proposed use is considered not incompatible with the surrounding areas.
- 11.3 DEP does not support the application as there are sensitive receivers in the vicinity of the Site, with the nearest one located 70m to the southwest of the Site (**Plan A-2**), and environmental nuisance is expected. There are also 2 air pollution complaints concerning the Site received in the past 3 years. The applicant fails to demonstrate that the applied use would not have adverse environmental impact to the surrounding area.
- 11.4 Other relevant Government departments, including C for T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS have no objection to or no adverse comment on the application. The applied use will unlikely create significant adverse traffic, landscape, drainage and fire safety impacts to the surrounding areas.
- 11.5 There is no previous application at the Site. The Committee rejected two similar applications (No. A/YL-HTF/1093 and 1096) straddling the same “R(D)” zone and the adjoining “AGR” zone (**Plan A-1**) for the same applied use in 2019 mainly on the grounds, inter alia, that the development was not in line with the planning intention of the “AGR” and “R(D)” zones; there were adverse departmental comments and insufficient information to demonstrate no environmental, traffic, drainage and/or landscape impacts. Although the Committee has approved four similar applications (No. A/YL-HTF/1085, 1099, 1101 and 1107) for temporary recyclable collection centre for metal, garment, cloth and/or waste paper use within the subject “R(D)” zone between 2018 and 2020, the current application is different in nature which involves the recycling of plastic and workshop uses and DEP does

not support the current application. Rejecting this application is in line with the Committee's previous decisions on similar rejected applications.

- 11.6 Four public comments were received objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 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 does not support the application for the temporary plastic recycling centre with workshop and ancillary office for the following reasons:

- (a) 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; and
- (b) the applicant fails to demonstrate that the applied use would not generate adverse environmental impact on the surrounding areas.

- 12.2 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 **4.12.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 7 p.m. to 7 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) no heavy goods vehicle exceeding 24 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 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 **4.6.2021**;
- (f) in relation to (e) 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 **4.9.2021**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (h) the submission of a 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 **4.6.2021**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **4.9.2021**;
- (j) if any of the above planning conditions (a), (b), (c), (d) or (g) 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
- (k) if any of the above planning conditions (e), (f), (h) or (i) 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 IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

14. Attachments

Appendix I	Application Form with attachments received on 5.8.2020
Appendix Ia	FI received on 31.8.2020 providing estimated trip generation and attraction for the development
Appendix II	Similar Applications within the same "R(D)" zone
Appendices III-1 to III-4	Public Comments
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos