

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/320

- Applicant** : Mr. KONG Chun Sing represented by Metro Planning & Development Company Limited
- Site** : Lots 1679 (Part), 1684 (Part), 1685 (Part) and 1690 (Part) in D.D. 129 and Adjoining Government Land, Lau Fau Shan, Yuen Long
- Site Area** : 5,600 m² (about) (Includes Government Land of about 910 m²)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/8
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Warehouse for Storage of Documents 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 warehouse for storage of documents for a period of 3 years (**Plan A-1**). The Site is the subject of one previous application (No. A/YL-LFS/99) for temporary warehouse & open storage of construction materials for a period of 3 years was rejected by the Town Planning Board (the Board) upon review on 7.2.2003. The Site is currently being used for the applied use without a valid planning permission.
- 1.2 The Site is accessible from Deep Bay Road via a local tracks and the ingress/egress is located at the north-western part of the Site (**Drawings A-1 and A-2, Plan A-2**). As shown on the proposed layout plan at **Drawing A-2**, three temporary single-storey structure (not exceeding 3.5 - 8m high with a total gross floor area of not exceeding 3,620m²) for storage of documents and toilet are proposed. The proposed landscape and tree preservation plan and drainage plan are at **Drawings A-3 and A-4** respectively. The applicant indicates that the operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. There will also be no workshop activity on-site and only 5.5-tonne light goods vehicles will be required to deliver documents to and from the Site.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form dated 15.5.2018 (Appendix I)
- (b) Supplementary planning statement with site plan, (Appendix Ia) proposed layout plan, landscape and tree preservation plan and drainage plan

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement at **Appendix Ia**. They can be summarized as follows:

- (a) The original sauce factory and food processing workshop at the Site have been relocated to Mainland China. So the proposed development is the product of economic restructuring.
- (b) The proposed warehouse for storage of documents, which is clean and stored tidily, is significantly different from the nearby open storage and port back-up activities and is not incompatible with the surrounding small scale open storage use, rural workshops, factory and warehouses.
- (c) The Site falls within “Recreation”(“REC”) zone according to draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan No. S/YL-LFS/8. In view of the remoteness and inaccessibility of the Site, the planning intention could not be realized in the coming future.
- (d) Though the Site falls within the Category 3 Area according to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E), the applied use is warehouse for storage of documents only, which is different from open storage and port back-up uses. So the TPB PG-No. 13E is not applicable to the applied use.
- (e) The impact of the proposed development to the environment, visual, transport and drainage is insignificant. The proposed development is intended for storage of documents only and no workshop activity would be carried out on-site. Various mitigation measures are proposed to maintain the environmental, traffic, visual and drainage qualities, including no operation during sensitive hours from 6:00 p.m. to 9:00 a.m. from Mondays to Saturdays and no operation on Sundays, only short-live loading and unloading activity and infrequent vehicular traffic to and from the Site will be generated, peripheral planting along the northern and southern part of the Site is proposed, and the storage operation will be carried out within a warehouse.

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is the sole “current land owner” of his respective lot. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

Part of the Site is subject of an active enforcement case (No. E/YL-LFS/453 - UD: storage use (including deposit of containers). Enforcement Notice (EN) for the case was issued on 18.5.2018 and the EN required UD be discontinued on or before 18.7.2018. If the UD continues, necessary prosecution action against the concerned lot owners will be taken under the Town Planning Ordinance subject to sufficient evidence collected.

5. Previous Applications

The site involves 1 previous planning application (No. A/YL-LFS/99) for temporary warehouse and open storage of construction materials for a period of 3 years, which was rejected by the Board upon review on 7.2.2003 for the reasons of not in line with the planning intention of the “REC” zone, insufficient information in the submission to demonstrate that the development would not have adverse environmental, ecological, traffic, drainage or landscape impacts on the surrounding areas and undesirable precedent for other similar planning applications. Detailed of the previous application is summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 2 similar applications (No. A/YL-LFS/104 and 114) for temporary godown for storage of cleaning agents use within the same “REC” zone, in which they were rejected by the Committee on 4.4.2003 and 29.8.2003 respectively. Details of the similar applications are summarised at **Appendix III** and their locations are shown in **Plan A-1**.
- 6.2 The 2 rejected applications involved the same site (**Plan A-1**). The reasons for rejection for these applications mainly included not in line with the planning intention, insufficient information in the submission to demonstrate that there would not have adverse environmental, traffic and drainage impacts on the surrounding area, and undesirable precedent for other similar planning application.
- 6.3 For Members’ information, Application No. A/YL-LFS/321 for proposed temporary warehouse for storage of plastic and retail of plastic pellet for a period of 3 years within the same “REC” zone will also be considered at this meeting (**Plan A-1**).

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

7.1 The Site is:

- (a) currently being used for the applied use without a valid planning permission; and
- (b) accessible from Deep Bay Road via a local track through both private lot and Government Land (GL).

7.2 The surrounding areas have the following characteristics:

- (a) predominantly open storage of containers, factory and godown which are existing use and open storage of recycling materials, forklifts and vehicles which are suspected UDs;
- (b) “R(E)” and “GB” in the west and in the south; and
- (c) graves to the south of the Site.

8. Planning Intention

The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted on the application and public comment received 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 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 Government Land (GL) of about 910m² in area (subject to verification) included in the Site. The act of occupation of GL without Government’s prior approval is not allowed.
- (c) The private land (PL) of Lot No. 1679 in D.D. 129 is covered by Short Term Waiver (STW) No. 1176 to permit structures for the purpose of “Soy Sauce and Preserved Food Factory”.
- (d) The Site is accessible to Deep Bay Road through both PL and GL. Her 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 does not fall within Shek Kong Airfield Height Restriction Area.
- (f) Should planning approval be given to the planning application, the lot owners will need to apply to her office to permit the structures to be erected or regularize any irregularity on site. Besides, the

applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Furthermore, the STW holder will need to apply to her office for modification of the STW conditions if there is any irregularity on site.

- (g) Such application would 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 will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fees, as may be imposed by LandsD.

Traffic

9.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment on the application from traffic engineering viewpoint.
- (b) On the basis of information provided by the Applicant, the traffic of the Site would be through a local track leading to Deep Bay Road which is a one-lane two-way carriageway. The estimated trip generation and attraction is 1.5 pcu/hr respectively at peak hours, which only involve light goods vehicles.
- (c) Sufficient manoeuvring spaces shall be provided within the Site. No vehicle is allowed to queue back to the public road or reverse onto/from the public road.
- (d) The local track leading to the Site is not under TD's 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 Deep Bay Road.

Environment

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

- (a) No substantiated environmental complaint pertaining to the Site has been received in the past three years.

- (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 Environmental Aspects of Open Storage and Temporary Uses' (COP).

Landscape

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) The Site, located to the south of Pine Lodge, lies in an area of "REC" zone. The application seeks planning permission for temporary warehouse for storage of documents on a site for a period of 3 years.
- (c) With reference to the aerial photo of 2018, it is observed that the Site is completely hard paved and mostly occupied by two large temporary structures. The Site is situated in an area of rural landscape character disturbed by open storage yards and temporary structures. Significant change to the landscape character arising from the application is not anticipated. Hence he has no objection to the application from the landscape planning perspective.
- (d) Should the Board approve this application, the following approval condition should be included in the permission:

The submission and implementation of a landscape proposal including a tree preservation scheme to the satisfaction of the Director of Planning or of the Town Planning Board.

- (e) The Applicant is reminded that approval of the tree preservation and landscape proposal by the Board under S.16 application does not imply approval for tree works such as pruning, transplanting and/or felling under lease. Tree Removal Applications should be submitted direct to DLO for approval.
- (f) Detailed comments of CTP/UD&L, Plan D are summarized in **Appendix IV**.

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 proposed development from drainage point of view.
- (b) Detailed comments of CE/MN, DSD are summarized in **Appendix IV**.

- (c) Should the Board considers that the application is acceptable from the planning point of view, it is suggested that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.

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) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Buildings Department (BD), they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (d) Before any new building works (including containers/open sheds as temporary buildings 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.
- (e) The site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations respectively.
- (f) If the site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation 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 the satisfaction of

Director of Fire Services.

- (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 and 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.

Water Supply

9.1.9 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) He has no objection to the application.
- (b) The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply to the application lot and shall be responsible for the laying, operation and maintenance of any related water mains on private lots to WSD's standards.

District Officer's Comment

9.1.10 Comment of 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/New Territories West, New Territories West Development Office, CEDD (PM/NTW, CEDD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS); and
- (f) Commissioner of Police (C of P).

10. Public Comment Received During Statutory Publication Period

On 25.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 15.6.2018, two public comments objecting to the application from individuals of the public were received (**Appendices Va & b**). The objection reasons include not in line with the planning intention, undesirable precedent, encourage illegal operation, fire safety concern, illegal occupation of Government land and graves nearby.

11. Planning Considerations and Assessments

11.1 The applied temporary warehouse for storage of documents is not in line with the planning intention of “REC” zone, which is primarily for recreational developments for the use of the general public. However, as there is yet to have any known development proposals to implement the zoned use on the OZP, approval of the application on temporary basis would not frustrate the planning intention of the “REC” zone.

11.2 The Site is located in an area predominantly used for factory, godown and open storages uses (**Plan A-2**). Therefore, the applied use is not incompatible with the surrounding uses.

11.3 There are no adverse departmental comments from concerned Government departments including DAFC, DEP, D of FS and AC for T/NT of TD. Adverse impact on ecology, environment, fire safety and traffic are not expected. There has been no substantiated environmental complaint concerning the Site received in the past three years. Relevant approval conditions have been recommended in paragraph 12.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on-site would subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the COP in order to minimize the possible environmental impacts on the nearby sensitive receivers.

11.4 The previous planning application (No. A/YL-LFS/99) for temporary warehouse and open storage of construction materials was rejected by the Board upon review on the reason, among others, of insufficient information to demonstrate no adverse environmental, ecological, traffic, drainage or landscape impacts. In the current application, the applied use only involves warehouse for storage of documents and the applicant has submitted proposed landscape and tree preservation plan and drainage plan and recommended environmental mitigation measures to minimize potential environmental impact. There are no adverse departmental comments from concerned Government departments.

11.5 There are two public comments received objecting to the application mainly on the grounds as summarized in paragraph 10 above. The planning assessments and considerations in paragraph 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 above and the public comment in paragraph 10, the Planning Department considers that the temporary warehouse for storage of documents could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the application shall be valid on a temporary basis for a period of 3 years until **6.7.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. to 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) no vehicle exceeding 5.5 tonnes, as defined in the Road Traffic Ordinance, including container vehicle/trailer/tractor, as proposed by the applicant, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (d) no workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (e) no open storage of materials, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (g) the provision of fencing of the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board **by 6.1.2019**;
- (h) the submission of a 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 6.1.2019**;
- (i) in relation to (h) above, the implementation of the revised 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 6.4.2019**;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board **by 6.1.2019**;

- (l) in relation to (k) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **6.4.2019**;
- (m) the submission of a revised tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.1.2019**;
- (n) in relation to (m) above, the implementation of the revised tree preservation and landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **6.4.2019**;
- (o) if any of the above planning conditions (a), (b), (c), (d), (e), (f) or (j) 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;
- (p) if any of the above planning conditions (g), (h), (i), (k), (l), (m) or (n) 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; and
- (q) upon expiry of the planning permission, the reinstatement of the application site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are attached 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 applied development is not in line with the planning intention of the "Recreation" zone, which is primarily for recreational developments for the use of the general public. 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 conditions and advisory clauses, 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 reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form received on 15.5.2018
Appendix Ia	Supplementary planning statement with location plans, proposed layout plan, tree preservation and landscape plan and drainage plan received on 15.5.2018
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the “REC” zone on the draft Lau Fau Shan and Tsim Bei Tsui OZP
Appendices IV	Detailed comments of concerned Government departments
Appendices Va & b	Public Comment
Appendix VI	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Drawing A-4	Proposed Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2018**