

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/YL-LFS/361

- Applicant** : Ming Fai Industrial (HK) Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 2075 (Part), 2076 (Part), 2082 (Part) and 2083 (Part) in D.D. 129, Lau Fau Shan, Yuen Long
- Site Area** : About 782 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Recreation” (“REC”)
- Application** : Renewal of Planning Approval for Temporary Warehouse for Storage of Animal Feed 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 animal feed for a period of 3 years (**Plan A-1**). The Site falls within an area zoned “REC” and the applied use is neither a Column 1 nor Column 2 use in the “REC” zone. According to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without planning permission.
- 1.2 The Site is the subject of four previous applications (No. A/YL-LFS/26, 223, 261 and 295) for temporary open storage and warehouse uses. The last application (No. A/YL-LFS/295) for renewal of planning approval for temporary warehouse for storage of animal feed use for a period of 3 years until 9.5.2020 was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 28.4.2017. The applicant has complied with all the time-limited approval conditions of the last application.
- 1.3 The Site is accessible from Deep Bay Road through a local track (**Plans A-2 and A-3**) and the ingress/egress is located at the northern corner of the Site (**Drawing**

A-2 and Plan A-2). As shown on the proposed layout plan at **Drawing A-2**, one single-storey structure (not exceeding 7m high with a gross floor area of not exceeding 782m²) for warehouse for storage of animal feed is proposed. The as-built landscape plan and as-built drainage plan are at **Drawings A-3 and A-4** respectively. The applicant indicates that the operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. There will be no workshop activity on-site and only 5.5-tonne light goods vehicles will be required to deliver animal feed to and from the Site.

- 1.4 As compared with the last approved planning application No. A/YL-LFS/295, the current application is submitted by a different applicant but on the same site with the same layout and development parameters.
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 11.3.2020 with annex and plans (**Appendix I**)
 - (b) Further Information received on 28.5.2020 providing a location plan with vehicular access and an updated layout plan (**Appendix Ia**)
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.4.2020 (the previous permission was valid up to 9.5.2020) for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**. They can be summarized as follows:

- (a) The Site is the subject of three previous planning permissions (Applications No. A/YL-LFS/223, 261 and 295) since 2011. The planning circumstances pertaining to the Site is similar to that of the last planning permission.
- (b) The applicant has complied with all planning conditions in application No. A/YL-LFS/295.
- (c) The proposed development is compatible with the surrounding environment as it is a minor extension to the adjoining feed mill.
- (d) The planning intention could not be realized in the coming future.
- (e) There is no alternative site for the applied use due to shortage of land for operation of feed mill in Ha Tsuen and Lau Fau Shan area.
- (f) The actual operation of the proposed development since 2011 demonstrated that impacts of the proposed development on the drainage, transport, visual and environment aspects are insignificant.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Ping Shan Rural Committee by a registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are attached at **Appendix II**.

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Applications

6.1 The Site is related to four previous applications (No. A/YL-LFS/26, 223, 261 and 295) (**Plan A-1**) for temporary open storage or warehouse use. Detailed of these previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

6.2 Application No. A/YL-LFS/26, which involved a much larger site of about 2.46 ha, for temporary open storage of construction materials was rejected by the Board upon review on 24.7.1998 on the grounds that the development was not in line with the planning intentions of the “Coastal Protection Area” (“CPA”) and “REC” zones, not compatible with the surrounding areas, insufficient information to demonstrate no adverse traffic and drainage impacts and setting an undesirable precedent.

6.3 Applications No. A/YL-LFS/223, 261 and 295, which cover the same site as the current application, were all for temporary warehouse for storage of animal feed use for a period of 3 years. Application No. A/YL-LFS/223 was approved with conditions by the Committee on 23.9.2011. However, it was subsequently revoked on 23.8.2013 due to non-compliance with approval condition on the implementation of fire service installations proposal. Application No. A/YL-LFS/261 was approved by the Committee with conditions on 9.5.2014 until 9.5.2017. The last application No. A/YL-LFS/295 for renewal of planning approval for “temporary warehouse for storage of animal feed” was approved by the Committee with conditions on 28.4.2017 until 9.5.2020. All the time-limited approval conditions have been complied with.

6.4 Compared with the last application No. A/YL-LFS/295, the current application is submitted by a different applicant but for the same use on the same site with the same development parameters.

7. Similar Applications

- 7.1 There are three similar applications (No. A/YL-LFS/91, 214 and 321) for temporary warehouse use within the same “REC” zone, in which one (Application No. A/YL-LFS/321) was approved by the Committee and two (Applications No. A/YL-LFS/91 and 214) were rejected. Details of these applications and the Committee’s/Board’s decisions are summarized at **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Application No. A/YL-LFS/321 for proposed temporary warehouse for storage of plastic and retail of plastic pellet was approved by the Committee on 6.7.2018 for a period of 3 years mainly on the considerations of not frustrating the planning intention of the “REC” zone and no significant traffic and environmental impacts on the area.
- 7.3 Applications No. A/YL-LFS/91 and 214 for temporary warehouse were rejected by the Board upon review/the Committee on 10.1.2003 and 23.12.2010 respectively mainly on the grounds of not in line with the planning intention of the “REC” zone; insufficient or no information to demonstrate no adverse environmental, ecological, traffic, drainage or landscape impacts and setting an undesirable precedent for similar applications.

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

8.1 The Site is:

- (a) currently being used for the applied use without planning permission; and
- (b) accessible from Deep Bay Road via a local track.

8.2 The surrounding areas have the following characteristics:

- (a) to its immediate north is a warehouse. To the further north and northeast are open storage yards of recycling materials and vacant land;
- (b) to its immediate east is an open storage of recycling materials. To the further southeast are residential dwellings and vacant land across Deep Bay Road;
- (c) to its south are a warehouse of animal feed tolerated under the Town Planning Ordinance; two open storage yards of recycling materials and construction materials, residential dwellings (the closest being about 60m away) and fallow agricultural land; and
- (d) to its west and southwest are open storage yards, an open storage of construction machinery, parking of trailers, remote control car circuit, marble workshop and vacant land.

9. 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.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted on the application and their views are summarized as follows:

Land Administration

10.1.1 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) The private lots (PL) of Lots No. 2075, 2083 & 2076 in D.D 129 are covered by Short Term Waiver (STW) Nos. 3692 & 3694 respectively to permit structures for the purpose of “Warehouse for Storage of Animal Feed”.
- (c) The PL of Lot No. 2082 in D.D. 129 is covered by STW No. 2470 to permit structures for the purpose of “Storage of Animal Feeds”.
- (d) Should planning approval be given to the application, the STW(s) holders will need to apply to his office for modification of the STW(s) conditions where appropriate. Besides, given the applied 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 rent or fee, as may be imposed by LandsD.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering viewpoint.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to the public roads or reverse onto/from the public roads.

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

- (a) The access arrangement should be commented by the Transport Department.
- (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

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

- (a) He has no adverse comment on the application.
- (b) No pollution complaint pertaining to the Site was received in the past 3 years.
- (c) 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

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

- (a) The Site falls within an area zoned "REC" on the Approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/9. It is the subject of an approved application No. A/YL-LFS/295 for renewal of planning permission for temporary warehouse for storage of animal feed to which she has no objection from landscape planning perspective. The current application seeks renewal of planning permission for the same use for a period of 3 years.
- (b) According to the aerial photo of 2018, there is no significant change to the surrounding landscape setting since the application was last approved. The Site is fully occupied by large temporary structures. Further adverse impact due to the renewal of the applied use is not expected. As such, she has no objection to the application from landscape planning point of view.
- (c) In view that the Site is not facing any prominent public frontage and there is existing buffer planting along the northeastern periphery of the Site, it is considered appropriate to impose an approval condition to maintain all existing trees within the Site in good condition for the duration of the planning approval period should the application be approved by the Board.

- (d) The applicant is reminded of the importance of undertaking proper tree care for existing trees within the Site. Useful information published by the GLTM Section, DEVB on general tree maintenance and tree risk management is available for reference in the following links:
- 護養樹木的簡易圖解:
https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Pictorial_Guide_for_Tree_Maintenance.pdf
 - 樹木管理手冊:
https://www.greening.gov.hk/tc/tree_care/Handbook_on_Tree_Management.html
 - 樹木風險評估及管理安排:
https://www.greening.gov.hk/tc/tree_care/tra_arrangements.html
 - 護養樹木 保障安全:
https://www.greening.gov.hk/filemanager/content/pdf/tree_care/Chinese_Leaflet_Big_font_size_v1_2012_03_29.pdf
 - 減低樹木風險的樹木護養簡易圖解:
[https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk\(eng\).pdf](https://www.greening.gov.hk/filemanager/content/pdf/tree_care/PictorialGuideForTreeMaintenanceToReduceTreeRisk(eng).pdf)

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which were implemented under the approved application No. A/YL-LFS/295 will be maintained for the current application. He has no objection in principle to the proposed development from drainage point of view. Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his department.
- (b) The applicant should be reminded that the required condition record should include coloured photos showing the current condition of the drainage facilities and a layout plan indicating the locations of the photos taken. The submitted photos should cover all internal surface channels, catch pits, sand traps, manholes, terminal catch pits/manholes and the downstream discharge path as indicated on the submitted drainage proposal.

Building Matters

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

- (a) There is no in-principle objection under the Buildings Ordinance (BO) to the applied use on the Site.
- (b) There is no record of approval by the Building Authority (BA) for the structures existing at the Site and BD is not in a position to offer comments on their suitability for the use related to the application.
- (c) If the existing structures are erected on leased land without approval of BD (not being New Territories Exempted Houses), they are unauthorized under the BO and should not be designated for any approved use under the application.
- (d) Before any new building works (including warehouse as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with BO.
- (e) For UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under BO.
- (f) 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.
- (g) 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

10.1.8 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 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

District Officer's Comment

10.1.9 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.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Project Manager (West), CEDD (PM(W), CEDD);
- (d) Principal Project Coordinator/Special Duty, Drainage Services Department (PPC/SD, DSD);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Director of Food and Environmental Hygiene (DFEH);
- (g) Director of Leisure and Cultural Services (DLCS);
- (h) Commissioner of Police (C of P); and
- (i) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 20.3.2020, the application was published for public inspection. During the statutory public inspection period, 7 public comments were received from the N.T. Oyster and Aquatic Products United Association, the Lau Fau Shan Chamber of Commerce, the villagers and an individual (**Appendices V-1 to V-7**). All are objecting to the application and their reasons are summarized below:

- (a) the applied use will generate adverse traffic and environmental impacts to the surrounding area and affect the health of the local residents;
- (b) the need of a large quantity of animal feed is in doubt as Hong Kong has gradually introduced more restrictions on animal rearing; and
- (c) the applied use should be relocated to a facility in the Mainland and the Site could be rehabilitated for a purpose more appropriate to the "REC" zone.

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of the planning permission under previous Application No. A/YL-LFS/295 for temporary warehouse for storage of animal feed at the Site zoned “REC” on the OZP. The planning intention of the “REC” zone is primarily for recreational developments for the use of the general public. Although the applied use is not entirely in line with the planning intention of “REC” zone, there is no known programme to implement the zoned use on the OZP. Approval of the application on a temporary basis would not frustrate the planning intention of the “REC” zone.
- 12.2 The applied use for temporary warehouse for storage of animal feed is not incompatible with the surrounding areas which are predominantly used for warehouses and open storages purposes (**Plan A-2**).
- 12.3 The application is generally in line with the TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval under Application No. A/YL-LFS/295, the applicant has complied with all the approval conditions, and the 3-year approval period sought is of the same time frame as the previous approval.
- 12.4 Concerned Government departments consulted have no objection to or adverse comments on the application. It is anticipated that the applied use would not have significant adverse environmental, traffic, landscape, drainage and fire safety impacts on the surrounding areas. To minimise any possible environmental nuisances generated by the applied use or to address the technical requirements of concerned government departments, relevant approval conditions are also recommended in paragraph 13.2 below. Any non-compliance with the approval conditions would result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will also be advised to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize the possible environmental impacts on the nearby sensitive receivers.
- 12.5 The Committee had approved 3 previous applications (Nos. A/YL-LFS/223, 261 and 295) for the same use at the same site between 2011 and 2017 (**Plan A-1**). Approval of the application is in line with the Committee’s previous decisions.
- 12.6 There are 7 public comments received objecting to the application on the grounds as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the temporary warehouse for storage of animal feed could be tolerated for a further period of 3 years.
- 13.2 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, and be

renewed from **12.6.2020** until **12.6.2023**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. to 8:00 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 is allowed on the Site at any time 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 existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (h) the existing drainage facilities on the Site should be maintained at all times during the approval period;
- (i) the submission of a condition record of the existing drainage facilities on the Site 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 **12.9.2020**;
- (j) 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 **12.12.2020**;
- (k) in relation to (j) 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 **12.3.2021**;
- (l) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (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
- (m) if any of the above planning conditions (i), (j) or (k) 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.

[Except condition (g) which is to accord department's latest requirement, other conditions are the same as the previous Application No. A/YL-LFS/295.]

Advisory Clauses

The recommended advisory clauses are attached at **Appendix VI**.

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

the development is not in line with the planning intention of the "REC" 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form received on 11.3.2020 with location plan, proposed layout plan, as-built landscape plan and as-built drainage plan
Appendix Ia	Further Information received on 28.5.2020 providing a location plan with vehicular access and an updated layout plan
Appendix II	Relevant extracts of Town Planning Board Guidelines on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB PG-No. 34C)
Appendix III	Previous applications covering the Site
Appendix IV	Similar applications within the "REC" zone on the approved Lau Fau Shan and Tsim Bei Tsui OZP
Appendices V-1 to V-7	Public Comments Received During Statutory Publication Period
Appendix VI	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Landscape Plan
Drawing A-4	As-built Drainage 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
JUNE 2020**