

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/619

- Applicant** : Mr. FUNG Siu-tan
- Site** : Lots 206 (Part), 227 (Part), 231 (Part), 232 S.A (Part), 232 S.B (Part), 232 S.C, 232 RP (Part), 234 (Part) and 235 (Part) in D.D. 126, Ping Shan, Yuen Long, New Territories
- Site Area** : 3,420 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Recreation” (“REC”)
- Application** : Temporary Warehouse and Open Storage of Plastic and Hardware Materials 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 and open storage of plastic and hardware materials for a period of 3 years. The Site falls within an area zoned “REC” on the OZP (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years 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 hard paved, fenced off, and occupied for the applied use without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves 11 previous applications for various open storage uses within the “REC” zone (**Plan A-1b**). The last application (No. A/YL-PS/529) covering the same site for the same use submitted by the same applicant was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 23.12.2016 for a period of 3 years. All the time-limited approval conditions were complied with and the planning permission lapsed on 24.12.2019.
- 1.3 The Site is accessible via a local track from Tin Wah Road and Tin Tsz Road (**Plan A-3 and Drawing A-1**). As shown on the layout plan at **Drawing A-2**, one temporary structure with a total floor area of about 223m² and maximum building

height of 5m for warehouse and site office uses is located at the northwestern corner of the Site and the remaining part of the Site is for open storage use. According to the applicant, a loading / unloading space for heavy goods vehicle is provided. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Fridays and from 10:00 a.m. to 6:00 p.m. on Saturdays. There is no operation on Sundays and public holidays. The vehicular access plan, layout plan and landscape plan are shown at **Drawings A-1 to A-3** respectively.

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

- (a) Application Form with attachments received on (**Appendix I**) 19.10.2020
- (b) Further Information (FI) received on 7.12.2020 [*exempted from publication requirements*] (**Appendix Ia**)
- (c) FI received on 11.12.2020 [*exempted from publication requirements*] (**Appendix Ib**)

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the FI received on 11.12.2020 (**Appendix Ib**) that the applied use has been in operation for many years. The applicant would like to continue the operation of the applied use at the Site.

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 posting notice at the Site and sending registered post to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site would be subject to planning enforcement action.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13F) are relevant to the application. The Site falls within Category 2 areas under the revised Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in 11 previous applications (No. A/DPA/YL-PS/3, 30, A/YL-PS/14, 40, 76, 185, 203, 276, 333, 423 and 529) for temporary open storage of new

vehicles or temporary warehouse and open storage of plastics and hardware materials uses from 1994 to 2016. Amongst them, 10 were approved and 1 was rejected by the Board/Committee. Details of these previous applications are in **Appendix III** and their locations are shown on **Plan A-1b**.

- 6.2 Application No. A/DPA/YL-PS/3 covering a larger site (about 11ha) for open storage of new vehicles was rejected by the Board on review in 1994 mainly on grounds of not in line with planning intention of the then “Unspecified Use” area, not compatible with surrounding land uses, failure to adequately address the drainage, visual and noise impacts, incomplete information on the existing access road and failure to demonstrate that the number of vehicles received/dispatched in future would be maintained at the present level.
- 6.3 Application No. A/DPA/YL-PS/30 covering the same site as A/DPA/YL-PS/3 for temporary open storage of new vehicles was approved with conditions by the Committee in 1994 for a period of 3 years on the considerations that there was no immediate alternative site available for open storage of new vehicles, ameliorative measures would be carried out to minimise adverse environmental impacts and the temporary use would not jeopardise the long-term planning intention of the area.
- 6.4 Applications No. A/YL-PS/14, 40 and 76 covering more or less the same site as A/DPA/YL-PS/30 for temporary open storage of new vehicles for a period of 12 months or 3 years were approved with conditions by the Committee between 1997 and 2000 on the considerations that previous approvals for similar or same uses were given and approval conditions of the previous applications were complied with, the temporary use would not frustrate permanent development of the application sites, the development would unlikely have significant adverse traffic and environmental impacts and relevant departments had no objection to the applications. However, the planning permission under application No. A/YL-PS/76 was revoked due to non-compliance with approval conditions.
- 6.5 Applications No. A/YL-PS/185, 203, 276, 333, 423 and 529 for the same use on the same site as the current application (except that the application site of A/YL-PS/185 is slightly smaller) and submitted by the same applicant were approved with conditions by the Committee for a period of 3 years each between 2004 and 2016 on the considerations that the long-term planning intention of the area would not be frustrated, not incompatible with the surrounding uses and similar approvals had been given. However, the planning permission under application No. A/YL-PS/185 was revoked on 25.9.2004 due to non-compliance with approval conditions.
- 6.6 Compared with the last approved application (No. A/YL-PS/529), the current application is submitted by the same applicant at the same site with the same development parameters.

7. Similar Applications

- 7.1 Within the same “REC” zone, there are 16 similar applications (No. A/YL-PS/346, 352, 360, 383, 398, 441, 446, 457, 461, 538, 545, 548, 602, 603, 612 and 616) for warehouse and/or open storage uses for a period of 3 years since 17.10.2008. Details of these applications are summarized at **Appendix IV** and the locations of these application sites are shown on **Plan A-1a**.

- 7.2 13 similar applications (No. A/YL-PS/346, 352, 360, 446, 457, 461, 538, 545, 548, 602, 603, 612 and 616) at four sites falling outside the Wetland Buffer Area (WBA) for temporary open storage of construction materials and machineries for a period of 3 years each within the “REC” zone were approved by the Committee between 2011 and 2020 on the considerations that long-term planning intention of the “REC” zone would not be frustrated, the development was not incompatible with the surrounding uses, concerned departments had no adverse comment, approval conditions could be imposed to address departmental concerns, approvals for similar uses were given and approval conditions of the previous applications were complied with.
- 7.3 Three similar applications (No. A/YL-PS/383, 398 and 441) at two sites for temporary open storage of construction machinery and materials uses for a period of 3 years within the “REC” zone were rejected by the Committee between 2012 and 2014. Application No. A/YL-PS/383 was rejected on the grounds of not in line with the planning intention and not complying with the then TPB PG-No. 13E in that there was no previous planning approval, no relevant technical assessments to demonstrate no adverse environmental impact on the surrounding area, not compatible with residential use in the surrounding area and adverse departmental comments on the application. Applications No. A/YL-PS/398 and 441, which fell within the WBA, were rejected on the grounds of not in line with the planning intention and not complying with the then TPB PG-No. 13E in that there is no previous planning approval, adverse drainage and landscape impacts on the surrounding area, and adverse departmental comments on and public objections to the applications.

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

8.1 The Site is:

- (a) currently hard paved, fenced off and occupied for the applied use without valid planning permission; and
- (b) accessible via a local track from Tin Wah Road and Tin Tsz Road (**Plans A-2 and A-3**).

8.2 The surrounding areas have the following characteristics:

- (a) to its east is an open storage yard for construction materials covered by valid planning permission;
- (b) to its immediate south are a residential structure and an open storage yard of machinery which is a suspected unauthorized development (UD). To its further south are two open storage yards for building materials and machinery covered by valid planning permissions;
- (c) to its immediate west is a residential structure. To its further west are two open storage yards for construction materials which are suspected UD's; and
- (d) to its north is an open storage yard for new vehicles which is covered by valid permission.

9. Planning Intention

The “REC” zone is intended 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 and their views on the application 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) Lot 232 S.A (Part) in D.D. 126 is covered by a Short Term Waiver (STW) No. 2755 for the purpose of storage of plastic materials while Lots 206 and 231 in D.D. 126 are covered by STW No. 4055 for temporary open storage of construction materials and construction equipment.
- (c) Should planning approval be given to the application, the STW holders will need to apply to his office for modification of the STW conditions where appropriate. The lot owners of the lots without STW will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the applied use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) of 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/are 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.

Environment

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

- (a) DEP does not support the application as the application involves the use of heavy goods vehicles and there are sensitive receivers of residential use in the vicinity (with the nearest one situated in the immediate south and west) (**Plan A-2**), thus environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code

of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.

- (c) There is no substantiated complaint pertaining to the Site received in the past 3 years.

Traffic

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

- (a) The Site is connected to Tin Wah Road and Tin Tsz Road via a section of a local access which is not managed by Transport Department (TD). The applicant should clarify with LandsD regarding the land status of the local access road. Moreover, the management and maintenance responsibilities of the local access road should be clarified with relevant lands and maintenance authorities accordingly.
- (b) As there is no information about the vehicular access at the private lot(s) to the Site, he presumes that the applicant should arrange by himself if necessary, and should seek the relevant land owner(s) on the right of using the vehicular access. The applicant should note his detailed comments at **Appendix VI**.
- (c) Should the Board consider that the application is acceptable from planning point of view, he would suggest conditions should be stipulated in the approval letter requiring the applicant to provide sufficient manoeuvring spaces at the Site and that no vehicle is allowed to queue back to or reverse onto/from the Site at any time during the planning approval period.

10.1.4 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 Tin Wah Road/Tin Tsz Road.

Drainage

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

- (a) He has no objection in principle to the application from 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.

Water Supply

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

- (a) He has no objection to the application.
- (b) The applicant should note his detailed comments at **Appendix VI**.

Fire Safety

10.1.7 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) The applicant is required to provide fire extinguisher(s). 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 VI**.

Landscape

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

- (a) The Site, located to the east of Fung Ka Wai, falls within an area zoned "REC". The Site involves 10 previous approved planning applications and he had no objection to the last application No. A/YL-PS/529 of the same use from planning landscape perspective. The same applicant seeks planning permission for proposed temporary warehouse and open storage of plastic and construction materials for a period of 3 years.
- (b) With reference to the aerial photo of 2019 and site photos taken on 4.11.2020, the Site is mainly dirt paved while concrete paving is observed at the northern corner. Temporary structures, containers, storage of construction materials and construction machinery are observed within the Site. Existing trees primarily *Ficus Microcarpa* and other common species are observed along the northern and eastern peripheries and at the middle portion of the Site. The Site is situated in an area of miscellaneous urban fringe landscape character predominated by tree groups, open storage yards and temporary structures. The applied use is considered not incompatible to the landscape character of the surrounding area. In view that significant adverse landscape impact arising from the applied use is not envisaged, he has no objection to the application from landscape planning perspective.

- (c) In view that the Site is not facing any prominent public frontage and it is surrounded by existing trees, it is recommended to impose a 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) Detailed departmental comments are at **Appendix VI**.

Building Matters

10.1.9 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**.

Others

10.1.10 Comments of the Chief Engineer/Housing Projects 2, Civil Engineering and Development Department (CE/HP2, CEDD);

- (a) CEDD is currently conducting a consultancy study titled “Agreement No. CE 11/2018(CE) - Site Formation and Infrastructural Works for Proposed Public Housing Development near Tin Shui Wai – Feasibility Study”. The consultancy study commenced in August 2018 and is anticipated to be completed in 2020. The Site falls within the proposed housing development site under the study.
- (b) Since the proposed housing development is still at feasibility stage and it is noted that the application is for temporary use for a period of 3 years, he has no comment on the application.

10.1.11 Comments of the Director of Housing (D of Housing):

- (a) The Site encroaches upon the proposed public housing development, which is currently under CEDD's on-going Engineering Feasibility Study.
- (b) Provided that the application will not have any adverse implication on CEDD's implementation programme on the site formation and infrastructure works to facilitate the public housing development, HD have no objection to the application.

District Officer's Comments

10.1.12 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.

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

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

11. Public Comments Received During Statutory Publication Period

On 27.10.2020, the application was published for public inspection. During the statutory public inspection period, two public comments from two individuals were received (**Appendices V-1 and V-2**) objecting to the application on the grounds that the development is not in line with the planning intention of the “REC” zone and TPB PG-No. 13F. The temporary use has lasted for more than 20 years, it would create inefficient use of land resources. The approval of the development sets an undesirable precedent. The development causes adverse traffic impacts to the surrounding areas.

12. Planning Considerations and Assessments

12.1 The application is for temporary warehouse and open storage of plastic and hardware materials for a period of 3 years at the Site zoned “REC” on the OZP. The “REC” zone is intended primarily for recreational developments for the use of the general public. Although the applied use is not in line with the planning intention of the “REC” zone, there is no known development program for the Site and CE/HP2 of CEDD advised that the proposed housing development covering the Site is still at feasibility stage. Approval of the application on a temporary basis for 3 years would not frustrate the long-term planning intention of the “REC” zone.

12.2 The Site is situated in an area of miscellaneous urban fringe landscape character predominated by tree groups, open storage yards and temporary structures. The applied use is considered not incompatible with the surrounding land uses which mainly comprise open storage yards (**Plan A-2 and Plan A-3**).

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The application is considered in line with the TPB PG-No. 13F. The Site is the subject of a previous approved planning application No. A/YL-PS/529 by the same

applicant for the same use. All the approval conditions have been complied with and the planning permission lapsed on 24.12.2019. The applied use would not generate adverse impacts and the technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.

- 12.5 Relevant Government departments including C for T, CE/MN of DSD and CTP/UD&L, PlanD have no adverse comment on/objection to the application. The applied use would not cause significant adverse traffic, drainage and landscape impacts on the surrounding areas. Although DEP does not support the application as there are sensitive receivers in the vicinity of the Site, with the nearest one located immediate west and south of the Site (**Plan A-2**) and environmental nuisance is expected, there is no substantiated complaint received in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical concerns of other concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Any non-compliance with these approval conditions would result in revocation of the planning permission and unauthorized development on-site would be subject to enforcement action by the Planning Authority. Besides, the applicant will also be advised to follow the 'Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites' to minimize the possible environmental impacts on the adjacent areas.
- 12.6 The Committee has previously approved 10 applications covering the Site for temporary open storage of new vehicles or warehouse and open storage of plastic and hardware materials uses since 1994. Within the same "REC" zone, there are 13 approved applications for various open storage/warehouse uses. Approval of the application is in line with the previous decisions of the Committee.
- 12.7 There are two public comments received (**Appendices V-1 and V-2**) objecting to the application on the grounds as summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the application for temporary warehouse and open storage of plastic and hardware materials could be tolerated for a 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 until 18.12.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 6 p.m. to 9 a.m. on Mondays to Fridays and from 6 p.m. to 10 a.m. on Saturdays, 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 is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) 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 **18.6.2021**;
- (e) in relation to (d) 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 **18.9.2021**;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times 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 boundary fencing should be maintained at all times during the planning approval period;
- (i) the provision of fire extinguisher(s) within **6 weeks** from the date of planning approval to the satisfaction of Director of Fire Services or of the Town Planning Board by **29.1.2021**;
- (j) 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 **18.6.2021**;
- (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 Director of Fire Services or of the Town Planning Board by **18.9.2021**;
- (l) if any of the above planning conditions (a), (b), (c), (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 (d), (e), (i), (j) or (k) 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 VI**.

- 13.3 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 "REC" zone which is primarily for recreational developments for the use of the general public. No strong planning justification has been given in the submission for a departure from the 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 19.10.2020
Appendix Ia	FI received on 7.12.2020
Appendix Ib	FI received on 11.12.2020
Appendix II	Extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13F)
Appendix III	Previous s.16 Applications covering the Site
Appendix IV	Similar s.16 Applications within the same “REC” zone
Appendices V-1 and V-2	Public Comments
Appendix VI	Advisory Clauses
Appendix VII	Good Practice Guidelines for Open Storage Sites issued by the Fire Services Department
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Landscape Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2020**