

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1085

- Applicant** : Lik Hsin represented by New Creation Consultant Engineering Co Ltd.
- Site** : Lots 142 (Part), 143 (Part), 158 (Part) and 160 (Part) in D.D.128, Ha Tsuen, Yuen Long, New Territories.
- Site Area** : 2,890 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/11
- Zoning** : “Residential (Group D)” (“R(D)”)
- Application** : Temporary Recyclable Collection Centre for Garment, Cloth and Waste Paper for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary recyclable collection centre for garment, cloth and waste paper for a period of 3 years. The Site falls within the “R(D)” zone on the Draft Ha Tsuen Fringe OZP No. S/YL-HTF/11 (**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 zone 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 recycling centre use without valid planning permission (**Plan A-2, A-4a & 4b**).
- 1.2 The Site is accessible via a local track from Ping Ha Road, Fung Kong Tsuen Road and Kai Pak Ling Road and the ingress/egress is located at the southern boundary of the Site (**Drawing A-1, Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, three temporary structures with a total floor area of not exceeding 852m² are proposed (including one single-storey 6m high structure with a floor area of 812m² for recycling centre at the eastern portion, a two-storey 4.8m high structure with a floor area of 15m² for office and a single-storey 2.4m high structure with a floor area of 10m² for toilet). 3 loading/unloading bays for light goods vehicle adjoining the recycling centre are also proposed.

- 1.3 According to the applicant, the operation hours are from 7:30am to 6:30pm from Mondays to Saturdays and no operation on Sundays and public holidays. The operation time for two light goods vehicle would be leaving the Site around 9:30am and returning around 4pm while another vehicle would collect and pack the goods and transport to pier or container yard. The total trip generation is about 10 times per day. No open storage will be carried out on the Site and no vehicles over 5.5 tonnes will enter the Site (**Appendices Ic & Id**). A proposed landscape plan and a proposed drainage plan are shown at **Drawings A-3** and **A-4** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 14.11.2017 with proposed (**Appendix I**) vehicular access plan, proposed layout plan, proposed landscape plan and proposed drainage plan
 - (b) Letter dated 21.12.2017 providing Further Information (FI) (**Appendix Ia**) for clarifying the operation time for light goods vehicle accessing the Site and the trip generation per day
 - (c) FI from applicant dated 9.3.2018 providing an appointment (**Appendix Ib**) letter for recycling services for Tin Shui Wai area
 - (d) FI from applicant dated 18.4.2018 clarifying no open (**Appendix Ic**) storage will be carried out on the Site
 - (e) FI from applicant dated 25.4.2018 clarifying that no (**Appendix Id**) vehicles over 5.5 tonnes will enter the Site and his company is a registered waste collector/recycler
- 1.5 The application was originally scheduled for consideration by the Committee on 12.1.2018. At the request of the applicant, the Committee on 12.1.2018 agreed to defer a decision for two months so as to allow time for the applicant to submit further information to address departmental comments. After the deferment, further information was received by the Board on 9.3.2018. The application is therefore 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 para. 9 of the application form (**Appendix I**). They can be summarized as follows:

The applicant is a registered recyclable collection company from Environmental Protection Department. The present application is intended for a temporary recyclable collection centre for garment, cloth and waste paper. The operation hours are from 7:30am to 6:30pm from Mondays to Saturdays and no operation on Sundays and public holidays.

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

The applicant is not the “current land owner” and has also 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. 31) by posting site notice and publishing notice on 3 local newspapers. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

It is noted that the Site is used for the applied use under current planning application without planning permission. Subject to the collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be taken in due course.

5. **Previous Application**

The Site is a part of a previous planning application No. A/YL-HT/137 for temporary open storage of construction machinery and construction material for a period of 3 years which was rejected by the Rural and New Town Planning Committee (the Committee) of the Board on 31.3.2000 for the reasons of not in line with the planning intention of the "R(D)" zone, no information to demonstrate that the development would not have adverse traffic, environmental and drainage impacts on the surrounding areas, and the approval would set an undesirable precedent for similar applications, the cumulated impact would result in general degradation of the environment. Details the application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Application**

There is no similar application within the "R(D)" zone on the OZP.

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

7.1 The Site is:

- (a) currently occupied by the applied use without valid planning permission; and
- (b) accessible via local track from Ping Ha Road, Fung Kong Tsuen Road and Kai Pak Ling Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its north are three open storage yards of construction materials, recycled materials and converted container as well as two warehouses & workshop which are all suspected unauthorized developments (UD) while to its further north are some vacant structures;
- (b) to its east is a piece of unused land and a warehouse which is a suspected UD, while to its southeast is an open storage yard of converted container and construction materials and parking of trailer which are both suspected UD;
- (c) to its south are two warehouses, an open storage yard of construction machinery and an open storage yard of recycled material which are all suspected UD, while to its further south and southwest are graves and unused land; and

- (d) to its west are three open storage yards of recycled material which are all suspected UD and some vacant structures.

8. Planning Intention

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

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application and public comments are summarized as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer/Yuen Long (DLO/YL):

- (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 Site is accessible to Kai Pak Ling Road through a local track on both private lots and Government land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity of the landlord 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 Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

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

- (c) The local track and Kai Pak Ling Road leading to the Site are not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track and Kai Pak Ling Road for using them as the vehicular access to the Site.
- 9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):
- (a) The access arrangement should be commented by TD.
 - (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to 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) The applicant is registered in the "Hong Kong Collector/Recycler Directory" (Directory) under voluntary basis. The Directory is a non-exhaustive list of waste collectors/recyclers which is uploaded to Waste Reduction Website (<https://www.wastereduction.gov.hk/tc/index.htm>) to promote local waste recovery and recycling in Hong Kong. However, the inclusion of any organisations does not in any way imply endorsement by the EPD.
 - (b) There was no substantiated environmental complaint pertaining to the Site for the applied use.
 - (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).

Drainage

- 9.1.5 Comments of the Chief Engineer/Mainland North, DSD (CE/MN, DSD):
- (a) No objection in principle to the proposed development from a public drainage point of view.
 - (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that conditions should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the drainage proposal for the development to the satisfaction of his division.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (b) 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.
- (c) 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.
- (d) 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) Regulations at the building plan submission stage.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire services installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the structures, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Others

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

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

- (b) For provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

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) Director of Electrical and Mechanical Services (DEMS);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (e) Chief Engineer/Land Works, Civil Engineering and Development Department (CE/LW, CEDD); and
- (f) Project Manager / New Territories West, CEDD (PM/NTW, CEDD).

10. Public Comments Received During Statutory Publication Period

On 21.11.2017, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 12.12.2017, one public comment were received from a member of the public objecting to the application mainly on the grounds of not in line with the planning intention of the "R(D)" zone; and setting of an undesirable precedent for similar applications and cumulative effect of which would result in general degradation of the environment of the area (**Appendix III**).

11. Planning Considerations and Assessment

- 11.1 The Site is zoned "R(D)" which 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 Town Planning Board. Whilst the development is not entirely in line with the planning intention, there is no known development for "R(D)" zone for the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site.
- 11.2 The Site is located in an area predominantly occupied by warehouse and open storage uses. The applied use is not incompatible with the surrounding areas.
- 11.3 There are no adverse comments or objection from concerned Government departments including AC for T/NT of TD, DEP and CE/MN of DSD. As such, no substantial adverse traffic, environmental, drainage impacts are expected. No substantiated environmental complaint pertaining to the Site in the last three years

was received. Furthermore, relevant approval conditions have been recommended in paragraph 12.2 to minimize any potential environmental nuisances or to address 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 '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.

- 11.4 There is no similar application in the subject "R(D)" zone and the Site is related to a previous application for open storage of construction machinery and construction material rejected in 2000. However, when compared to the previously rejected application, the current application neither involves open storage use nor the use of heavy vehicles. Concerned departments including AC for T/NT of TD, DEP and CE/MN of DSD have no adverse comments on the application from traffic, environmental and drainage aspects.
- 11.5 One public comment was received objecting to the application mainly on grounds stated in paragraph 10. Planning assessment in paragraphs 11.1 to 11.4 are relevant to these public comments.

12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10, the Planning Department considers that the temporary recyclable collection centre for garment, cloth and waste paper could be tolerated for a period of 3 years.
- 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 **4.5.2021**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- (a) no operation from 6:30p.m. to 7:30a.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 open storage, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) no medium or heavy goods vehicles (i.e. exceeding 5.5 tonnes), including container trailers/tractors, as defined in the Road Traffic Ordinance, as proposed by the applicant, is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) no vehicle queuing back to or reverse onto/from the public road is allowed at any time during the planning approval period;

- (f) the submission of the 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 **4.11.2018**;
- (g) in relation to (f) 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 **4.2.2019**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the submission of a 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 **4.11.2018**;
- (j) in relation to (i) above, the implementation of the 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 **4.2.2019**;
- (k) 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 **4.11.2018**;
- (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 Director of Fire Services or of the Town Planning Board by **4.2.2019**;
- (m) 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 **4.11.2018**;
- (n) if any of the above planning conditions (a), (b), (c), (d), (e) 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;
- (o) if any of the above planning conditions (f), (g), (i), (j), (k), (l) or (m) 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; and
- (p) upon expiry of the planning permission, the reinstatement of the 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 IV**.

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

- (a) the development is not in line with the planning intention of the "R(D)" zone which is intended 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 to merit a departure from such planning intention, even on a temporary basis; and

- (b) approval of the application, even on a temporary basis, would set an undesirable precedent for applications for other developments within the “R(D)” zone, the cumulative effect of which will result in a general degradation of the environment.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 13.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reasons for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with layout plan received on 14.11.2017 with proposed vehicular access plan, proposed layout plan, proposed landscape plan and proposed drainage plan
Appendix Ia	Letter dated 21.12.2017 providing Further Information (FI) for clarifying the operation time for light goods vehicle accessing the Site and the trip generation per day
Appendix Ib	FI from applicant dated 9.3.2018 providing an appointment letter for recycling services for Tin Shui Wai area
Appendix Ic	FI from applicant dated 18.4.2018 clarifying no open storage will be carried out on the Site
Appendix Id	FI from applicant dated 25.4.2018 clarifying that no vehicles over 5.5 tonnes will enter the Site and his company is a registered waste collector/recycler
Appendix II	Previous application
Appendix III	Public comment
Appendix IV	Advisory Clauses
Drawing A-1	Proposed Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape 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