

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1115

- Applicant** : Excel Hong Kong Development Limited represented by Mr. KWOK Chi-man
- Site** : Lot 136(Part) in D.D.128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : 2,600 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Residential (Group D)” (“R(D)”)
[Restricted to a maximum plot ratio of 0.2 and a maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Open Storage of Metal Waste and Logistics Centre for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of metal waste and logistics centre for a period of 3 years. The Site falls within an area zoned “R(D)” on the OZP (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years 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 fenced-off. Northern portion of the Site is occupied by open storage of metal waste while southern portion of the Site is occupied by vacant temporary structures (**Plans A-2, A-3, A-4a and A-4b**).
- 1.2 The Site is the subject of a previous application No. A/YL-HTF/1108 for temporary plastic recycling centre with workshop and ancillary office for a period of 3 years which was rejected by the Rural and New Town Planning Committee (the Committee) in 2020. Details of the previous application are summarised in paragraph 6 below and at **Appendix III**.
- 1.3 The Site is accessible via a local track leading to Kai Pak Ling Road / Fung Kong Tsuen Road (**Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-1**,

a single-storey temporary structure with a total floor area of about 1,100m² and maximum building height of 7m for logistics centre use including sorting, packing and baling of metal waste at the southern portion of the Site is proposed. The remaining part of the Site will be used for open storage of metal waste. According to the applicant, one private car parking space, three loading / unloading spaces for light goods vehicles and a 10m-diameter manoeuvring circle are provided. The operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays.

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

- (a) Application Form with attachments received on 9.4.2021 (**Appendix I**)
- (b) Further Information (FI) received on 20.5.2021 clarifying (**Appendix Ia**) the type of vehicle used [*exempted from publication requirements*]

2. Justifications from the Applicant

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

- (a) There is similar planning approval for open storage use in the surroundings of the Site.
- (b) The applied use conforms to the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F). The Site is situated in Category 2 Areas of TPB PG-No. 13F where the planning permission would normally be sympathetically considered if there is no objection from the public or Government departments.
- (c) The applied use is not incompatible with the surrounding environment.
- (d) The applied use is to re-provision open storage uses affected by the Hung Shui Kiu / Ha Tsuen New Development Area.
- (e) The applied use will not generate adverse traffic, environmental and drainage impacts to the surroundings.
- (f) No workshop activity will be allowed at the Site.
- (g) Only light goods vehicles are allowed to enter 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 site notice 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 is subject to planning enforcement action against unauthorized development (UD) involving storage use. Enforcement Notices (E/YL-HTF/921, 923 & 927) were issued on 16.11.2020 requiring discontinuation of the UD (**Plan A-2**). Recent site inspection revealed that the UD was discontinued for E/YL-HTF/921 & 927, while further site inspection for E/YL-HTF/923 will be arranged.

5. Town Planning Board Guidelines

On 27.3.2020, the Board promulgated the revised TPB PG-No. 13F. The Site falls within Category 2 areas under the revised Guidelines. Relevant extracts of the Guidelines are at **Appendix II**.

6. Previous Application

- 6.1 The Site is the subject of a previous application No. A/YL-HTF/1108, covering the northern part with a smaller site area (about 1,850m²), for temporary plastic recycling centre with workshop and ancillary office for a period of 3 years which was rejected by the Committee in 2020 on the grounds of not in line with the planning intention of the “R(D)” zone and failure to demonstrate no adverse environmental impact on the surrounding areas. Details of the previous application are summarized at **Appendix III** and the location is shown on **Plan A-1**.
- 6.2 Compared with the last application (No. A/YL-HTF/1108), the current application was submitted by a different applicant for different use on a larger site without involving workshop activities.

7. Similar Applications

- 7.1 Within the same “R(D)” zone, there is one similar application (No. A/YL-HTF/1111) for temporary open storage of metal for a period of 3 years, which was approved by the Committee in 2021 on the considerations of not jeopardizing the long-term development of the Site, not incompatible with the surrounding land uses, no adverse comment from relevant Government departments. Details of the application are summarized at **Appendix IV** and the location is shown on **Plan A-1**.
- 7.2 Application No. A/YL-HTF/1114 for proposed temporary open storage of construction materials for a period of 3 years to the east of the Site will be considered in the same meeting.

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

- 8.1 The Site is:
 - (a) currently partly occupied by open storage of metal waste and partly occupied by vacant temporary structures; and
 - (b) accessible via a local track from Kai Pak Ling Road / Fung Kong Tsuen Road (**Plans A-2 and A-3**).

8.2 The surrounding areas have the following characteristics:

- (a) to its east is a vacant site and a logistics centre covered by valid planning permission;
- (b) to its south are graves and an open storage yard which is suspected unauthorized developments (UD);
- (c) to its west is an open storage yard which is a suspected UD; and
- (d) to its north is an open storage yard covered by valid planning permission and another open storage yard which is a suspected UD.

9. Planning Intention

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

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 Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should planning approval be given to the application, the lot owner(s) of the lot(s) 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) He has no adverse comment on the application.
- (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 are four substantiated complaints on air aspect pertaining to the Site received in the past 3 years.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under Transport Department’s (TD) purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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 Fung Kong Tsuen 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, 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.

Fire Safety

10.1.6 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**.
- (c) The applicant should adhere to the Good Practice Guidelines for Open Storage Sites at **Appendix VII**.

Landscape

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

With reference to site visit conducted on 23.4.2021, the Site is hard-paved and partly occupied by an existing temporary structure. No existing tree is observed within the Site. The Site is situated in an area of rural landscape character predominated by temporary structures, open storage yards, and tree cluster. Significant change to the landscape character arising from the application is not envisaged.

Building Matters

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

As there is no record of approval granted by the Building Authority for the existing structures at the Site, he is not in a position to offer comments on the suitability for the use proposed in the application. The applicant should be reminded of the detailed comments at **Appendix VI**.

Water Supply

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

He has no objection to the application provided that the existing water mains will not be affected (**Plan A-2**). The applicant should be reminded of the detailed comments at **Appendix VI**.

Others

10.1.10 Comments of the Antiquities and Monuments Office, Development Bureau (AMO, DevB):

Having regard to the location and scope of the proposed temporary open storage of metal waste and logistics centre, he has no objection to the application from built heritage and archaeological conservation perspective. The applicant should be reminded of the detailed comments at **Appendix VI**.

District Officer's Comments

10.1.11 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 and he has no comment 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, Civil Engineering and Development Department (CE/LW, CEDD);
- (c) Project Manager(West), CEDD (PM/W, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

11. Public Comments Received During Statutory Publication Period

On 16.4.2021, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received (**Appendices V-1 and V-2**) objecting to the application on the grounds that the applied use is not in line with the planning intention of the “R(D)” zone and would cause adverse traffic and environmental impacts to the surrounding areas.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of metal waste and logistics centre for a period of 3 years at the Site zoned “R(D)” on the OZP. The planning intention of “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Whilst the proposed use is not in line with the planning intention of the “R(D)” zone, there is no known development for the Site in the subject “R(D)” zone. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site.
- 12.2 The Site is situated in an area of rural landscape character predominated by temporary structures, open storage yards, and tree cluster. The applied use is considered not incompatible with the surrounding land uses which mainly comprise open storage yards and warehouses (**Plans A-2 and A-3**).
- 12.3 Relevant Government departments including C for T, DEP, 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, environmental, drainage and landscape impacts on the surrounding areas. There have been four substantiated complaints on the air aspect pertaining to the Site in the past 3 years. To address the concerns on the possible environmental nuisances generated by the temporary use and the technical requirements of the 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.

- 12.4 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.

- 12.5 The application is considered in line with the TPB PG-No. 13F in that 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.
- 12.6 Although the Committee rejected one previous application (No. A/YL-HTF/1108) for temporary plastic recycling centre with workshop and ancillary office for a period of 3 years, it was rejected on the grounds of not in line with the planning intention of the "R(D)" zone and failure to demonstrate no adverse environmental impact on the surrounding areas. For the current application, it does not involve workshop activities, relevant Government departments have no adverse comment on the application, and technical concerns of relevant Government departments can be addressed by approval conditions. Within the same "R(D)" zone, there is one approved application for open storage use. Approval of the application is in line with the previous decision of the Committee for similar application.
- 12.7 There are two public comments received 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 assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the proposed temporary open storage of metal waste and logistics centre 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 28.5.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 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 workshop activity, as proposed by the applicant, is allowed on the Site at all times during the planning approval period;
- (d) no medium or heavy goods vehicles exceeding 5.5 tonnes, as defined under the Road Traffic Ordinance, are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (e) the submission of a drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **28.11.2021**;
- (f) in relation to (e) above, the implementation of the drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **28.2.2022**;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) the provision of boundary fencing within **6 months** from the date of planning approval to the satisfaction of Director of Planning or of the Town Planning Board by **28.11.2021**;
- (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 **9.7.2021**;
- (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 **28.11.2021**;
- (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 **28.2.2022**;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (g) is not complied with during the approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (m) if any of the above planning conditions (e), (f), (h), (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 “R(D)” zone, which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

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 9.4.2021
Appendix Ia	FI received on 20.5.2021
Appendix II	Extract of TPB PG-No.13F
Appendix III	Previous Application
Appendix IV	Similar s.16 Application within the same “R(D)” 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	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2021**