

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1129

- Applicant** : Ms. CHAN Wai-yung represented by Metro Planning and Development Company Limited
- Site** : Lots 175 (Part), 176 (Part), 177 (Part), 178 S.A, 178 S.B, 179 and 181 in D.D.128 and adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 8,200 m² (including GL of about 363.2m² or 4.4%)
- 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 Recyclable Collection Centre for Metal and Plastic with Ancillary Workshop for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary recyclable collection centre for metal and plastic with ancillary workshop for a period of 3 years at the application site (the Site). The Site falls within an area zoned “R(D)” on the OZP (**Plan A-1**). According to the Notes of the OZP for “R(D)” zone, ‘recyclable collection centre’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently hard-paved and formed and used for open storage of recycling materials with some temporary structures and parking of container vehicles/trailers without valid planning permission (**Plans A-2, A-4a and A-4b**). There is no previous application involving the Site.
- 1.2 The Site is accessible via a local track from Fung Kong Tsuen Road/Kai Pak Ling Road (**Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-2**, there will be six temporary structures of 1 to 2 storeys (3 to 6m) with total GFA of about 1,080m² for workshops, office and toilet uses. The uncovered area of the Site is mainly for open storage of recyclable materials (metal and plastic) and vehicular maneuvering space. The proposed ancillary workshop use only involves breaking

of plastic, within the noise insulated temporary structures with no washing, melting, burning of plastic waste. No workshop use will be carried out on uncovered area. There will be two private car parking spaces and one medium goods vehicle loading/unloading bay. The operation hours are from 9:00 a.m. to 7:00 p.m. Mondays to Saturdays. There will be no operation on Sundays and public holidays. The vehicular access plan, layout plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

1.3 In support of the application, the applicant has submitted the followings:

- (a) Application Form with attachments received on 10.1.2022 (**Appendix I**)
 - (b) Further Information (FI) received on 8.2.2022 (**Appendix Ia**)
 - (c) FI received on 21.2.2022 (**Appendix Ib**)
 - (d) FI received on 11.4.2022 (**Appendix Ic**)
- [(b) and (c) *exempted from publication requirements*]
[(d) *not exempted from publication requirements*]

1.4 On 4.3.2022, the Board agreed to the applicant's request to defer making a decision on the application for two months to allow time for the preparation of FI to address departmental comments. Subsequently, the applicant submitted FI to address comments from government departments. The application is scheduled for consideration by the Rural and New Town Planning Committee (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 the Application Form (**Appendix I**). They can be summarized as follows:

- (a) The proposed use is compatible with the planning intention of the "R(D)" zone. The proposed use is only temporary for a period of 3 years. It would not jeopardize the long-term planning intention of the Site.
- (b) The Board has approved similar applications and there are port back-up uses and open storage uses in the surroundings.
- (c) The applicant is operating a similar use at Lots 451, 452, 458 S.A, 458 S.B, 458 S.C and 489 in D.D. 125 in Ha Tsuen. The concerned site will be resumed for the development of Hung Shui Kiu/Ha Tsuen New Development Area shortly such that the applicant will need to relocate the business. The applicant seeks sympathetic consideration from the Board.
- (d) The proposed use would not induce adverse drainage and traffic impacts to the surroundings.

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 Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under TPB PG-No. 31A are not applicable.

4. Background

The Site would be subject to planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Applications

- 6.1 There are 10 similar applications (No. A/YL-HTF/1085, 1093, 1096, 1099, 1101, 1107, 1108, 1109, 1120 and 1123) involving five sites for various temporary recycling centre uses within the same “R(D)” zone on the OZP. Seven of them were approved with conditions by the Committee while the remaining three were rejected. Details of these applications are summarized at **Appendix II** and the locations of these application sites are shown on **Plan A-1**.

Approved Applications

- 6.2 Applications No. A/YL-HTF/1085, 1099 and 1107 covering largely the same site for temporary recyclable collection centre for garment, cloth and waste paper use (involving the use of light goods vehicles and without workshop activities) and Applications No. A/YL-HTF/1101 and 1109 covering the same site for proposed temporary recyclable collection centre for metal and garment (involving the use of light goods vehicles and without workshop activities) for a period of 3 years each were approved by the Committee between 2018 and 2020 mainly on the grounds that the development was not incompatible with the surrounding areas and there were no adverse traffic, environmental, drainage and landscape impacts on the surroundings. The planning permissions of applications No. A/YL-HTF/1085, 1099 and 1101 were subsequently revoked due to non-compliance with approval conditions.
- 6.3 Application No. A/YL-HTF/1120 for temporary recycling centre (metal waste, plastic and plastic bottle) with ancillary office and plastic breakdown workshop (involving the use of light goods vehicles and workshop activities with environmental mitigation measures) for a period of 3 years was approved by the Committee in 2021 on similar grounds as mentioned in paragraph 6.2 above.
- 6.4 Application No. A/YL-HTF/1123 for temporary recycling centre (metal) (involving the use of light goods vehicles and without workshop activities) for a period of 3 years was approved by the Committee in 2021 on similar grounds as mentioned in paragraph 6.2 above.

Rejected Applications

- 6.5 Applications No. A/YL-HTF/1093 and 1096 for temporary plastic bottle recycling centre with workshop and ancillary office straddling the adjoining “Agriculture” (“AGR”) and the subject “R(D)” zone for a period of 3 years were rejected by the Committee in 2019 on the grounds of not in line with the planning intention of the “AGR” and “R(D)” zones, failure to demonstrate no adverse environmental and traffic impacts, and setting an undesirable precedent.
- 6.6 Application No. A/YL-HTF/1108 for temporary plastic recycling centre with workshop and ancillary office (involving the use of medium goods vehicles and workshop activities) for a period of 3 years was rejected by the Committee in 2020 on grounds of not in line with the planning intention of the “R(D)” zone and failure to demonstrate no adverse environmental impacts to the surrounding areas.

7. The Site and Its Surrounding Areas (Plan A-2 to Plans A-4a and 4b)

7.1 The Site is:

- (a) currently hard-paved and formed, and used as open storage of recycling materials with some temporary structures without valid planning permission;
- (b) situated at a sloping ground ranging from about 19.2mPD at the south to about 26.1mPD at the northwest (**Plan A-2**); and
- (c) accessible via a local track from Fung Kong Tsuen Road/ Kai Pak Ling Road (**Plans A-2 and A-3**).

7.2 The surrounding areas have the following characteristics:

- (a) to its east are open storage yards of construction machinery/materials and recycling materials which are suspected unauthorized developments (UDs), and a recyclable collection centre with valid planning permission;
- (b) to its south are open storage yards of construction materials covered by valid planning permissions;
- (c) to its southwest is an open storage yard of construction materials which is a suspected UD; and
- (d) to its north is a vegetated knoll with graves.

8. Planning Intention

The planning intention of the “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.

9. Comments from Relevant Government Departments

9.1 Apart from the government department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and the recommended advisory clauses are provided in **Appendices III and IV** respectively.

9.2 The following government department does not support the application:

Environment

9.2.1 Comment of the Director of Environmental Protection (DEP):

- (a) He does not support the application.
- (b) The proposed development will generate dust nuisance in its operation and traffic of medium goods vehicles is expected to travel along Fung Kong Tsuen Road/ Kai Pak Ling Road which is within 50m from the nearest sensitive uses (residential dwellings in Fung Kong Tsuen), and environmental nuisance is expected.
- (c) Should the Board consider that the application is acceptable from planning point of view, he would suggest conditions be stipulated in the approval letter requiring that no burning, melting, washing or cleaning of recycling materials activities will be carried at the Site, and all workshop activities shall be conducted inside enclosed building structures with provision of mechanical ventilation system.
- (d) His recommended advisory clauses on the application are at **Appendix IV**.

10. Public Comments Received During Statutory Publication Period

On 18.1.2022, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals (**Appendices V-1 and V-2**) were received objecting to the application on the following grounds:

- (a) there is no previous approval for similar use at the Site; and
- (b) the development would cause adverse traffic, environmental and fire safety impacts to the surroundings.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary recyclable collection centre for metal and plastic with ancillary workshop for a period of 3 years at the Site zoned “R(D)” which is intended 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. The proposed use is not in line with the planning intention of the “R(D)” zone. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

- 11.2 The Site is located in an area predominantly occupied by open storage and recyclable collection centre uses. The proposed use is considered not incompatible with the surrounding areas.
- 11.3 DEP does not support the application as the proposed development will generate dust nuisance in its operation and traffic of medium goods vehicles is expected to travel along Fung Kong Tsuen Road/ Kai Pak Ling Road which is within 50m from the nearest sensitive uses (residential dwellings in Fung Kong Tsuen) (**Plans A-1 and A-3**), and environmental nuisance is expected. The applicant fails to demonstrate that the proposed use would not generate adverse environmental impact on the surrounding areas.
- 11.4 Other relevant government departments, including C for T, CTP/UD&L of PlanD, CE/MN of DSD, H(GEO) of CEDD and D of FS have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, landscape, drainage, geotechnical and fire safety impacts to the surrounding areas.
- 11.5 There is no previous application at the Site. The Committee rejected three similar applications within the same “R(D)” zone (**Plan A-1**) for similar temporary recycling centre with workshop use between 2019 and 2020 mainly on the grounds, inter alia, that the development was not in line with the planning intention of the “R(D)” zone; there were adverse departmental comments and insufficient information to demonstrate no adverse environmental and traffic impacts. Although the Committee has approved seven similar applications for temporary recyclable collection centre within the subject “R(D)” zone between 2018 and 2021, the circumstances of the current application are different in that it involves the use of medium goods vehicle and workshop operations (even with mitigation measures), and DEP does not support the current application from the environmental perspective. Rejecting this application is in line with the Committee’s previous decisions on similar rejected applications.
- 11.6 Two public comments were received objecting to the application mainly on grounds stated in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.5 are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
 - (a) the proposed use is not in line with the planning intention of the “R(D)” zone which is 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; and
 - (b) the applicant fails to demonstrate that the proposed use would not generate adverse environmental impact on the surrounding areas.

- 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 **10.6.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 7 p.m. to 9 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 heavy goods vehicle is allowed to enter / exit or to be parked / stored on the Site at any time during the planning approval period;
- (d) no burning, melting, washing or cleaning of recycling materials activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (e) all workshop activities shall be conducted inside enclosed building structures with provision of mechanical ventilation system, as proposed by the applicant, at any time during the planning approval period;
- (f) the submission of a revised drainage proposal within **6 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **10.12.2022**;
- (g) in relation to (f) above, the implementation of the revised drainage proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **10.3.2023**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the provision of boundary fencing within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **10.12.2022**;
- (j) the provision of fire extinguisher(s) within **6 weeks** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **22.7.2022**;
- (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 **10.12.2022**;
- (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 **10.3.2023**;
- (m) if any of the above planning condition (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;
and

- (n) if any of the above planning condition (f), (g), (i), (j), (k) or (l) 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 IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application Form with attachments received on 10.1.2022
Appendix Ia	FI received on 8.2.2022
Appendix Ib	FI received on 21.2.2022
Appendix Ic	FI received on 11.4.2022
Appendix II	Similar Applications within the same “R(D)” zone
Appendix III	Government departments’ general comments
Appendix IV	Recommended advisory clauses
Appendices V-1 and V-2	Public Comments
Appendix VI	Good Practice Guidelines for Open Storage Sites issued by the Fire Services Department
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan
Drawing A-3	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 2022**