

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-LFS/392**

- Applicant** : Ming Fai Industrial (HK) Company Limited represented by Metro Planning & Development Company Limited
- Site** : Lots 2019 (Part), 2037 (Part), 2038 (Part), 2054 (Part) and 2055 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : 1,430 m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/10 currently in force  
  
Approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/9 at the time of submission
- Zoning** : “Recreation” (“REC”)  
*[no change to the zoning under the current OZP]*
- Application** : Temporary Warehouse for Storage of Plastic and Retail of Plastic Pellet for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary warehouse for storage of plastic and retail of plastic pellet for a period of 3 years at the application site (the Site) (**Plan A-1a**). The Site falls within the “REC” zone on the OZP. According to the Notes of the OZP for “REC” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). While warehouse is not a Column 1 or 2 use under the “REC” zone, according to the covering Notes of the OZP, temporary use or development not exceeding a period of three years requires planning permission from the Board notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently occupied by the applied use without valid planning permission (**Plan A-4**).
- 1.2 The Site involves 5 previous planning applications for various uses (**Plan A-1b**). Amongst them, 1 application (No. A/YL-LFS/321) was approved while the other 4 applications (No. A/YL-LFS/26, 38, 123 and 134) were rejected. Details of the previous applications are at paragraph 5 and **Appendix II**. The last application (No. A/YL-LFS/321) for the same use as the current application was approved on 6.7.2018. However, the planning permission was revoked on 6.12.2020 due to non-compliance with the approval conditions on the implementation of drainage

and fire service installations (FSIs) proposals. Compared with the last application No. A/YL-LFS/321, the current application was submitted by the same applicant for the same use with similar layout on a slightly larger site.

- 1.3 The Site is accessible via a local track leading from Deep Bay Road (**Drawing A-1, Plans A-2 and A-3**). The ingress/egress points are located at the western and eastern boundaries of the Site (**Drawing A-2 and Plan A-2**). According to the applicant, one single-storey (8 m height) temporary structure with total gross floor area of about 800 m<sup>2</sup> for warehouse (600m<sup>2</sup>) and retail of plastic pellet (200m<sup>2</sup>) uses, 2 private car parking spaces and 1 loading/unloading bay for light goods vehicle are provided on site. The operation hours of the Site are from 9 a.m. to 6 p.m. from Mondays to Saturdays but no operation on Sundays and public holidays. According to the applicant, delivery will be carried out by light goods vehicle not exceeding 5.5 tonnes only. No workshop activity is proposed. The location plan with vehicular access, proposed layout plan, proposed landscape and tree preservation plan, as-built drainage proposal, discharge path to existing natural stream plan and FSIs proposal are at **Drawings A-1 to A-6** respectively.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 15.3.2021 (**Appendix I**)
  - (b) Further information (FI) received on 6.5.2021 clarifying (**Appendix Ia**) the background of the Site and its adjoining land and providing the FSIs proposal  
(*exempted from publication requirement*)

## **2. Justifications from the Applicant**

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

- (a) Due to the tightening up of the requirement of China Custom on the export of scrap plastic from Hong Kong to China, the development can support the operation of the plastic recycling business in Hong Kong.
- (b) The development is significantly different from open storage and port back-up activities as it will only involve storage of packed raw material and plastic pellet within the warehouse in a clean and tidy condition. No open storage or workshop activities will be carried out at the Site.
- (c) The development is subject to a previous planning permission (Application No. A/YL-LFS/321). The applicant has complied with all the planning conditions imposed to the last planning permission except the implementation of FSIs proposal due to the delayed inspection by Fire Services Department (FSD) under the Covid-19 pandemic. Besides, as the actual occupation of the Site is larger than the approved boundary of the previous permission, a fresh planning application is submitted.
- (d) The planning intention of the “REC” zone is unrealizable in the near future due to the remoteness of the area.

- (e) There is alternative site for the applied use due to shortage of land for operation of the plastic recycling workshop in Ha Tsuen and Lau Fau Shan.
- (f) The development is compatible with the surrounding environment with similar approved planning applications in the vicinity. The environmental, noise and traffic impacts generated by the development would be insignificant.

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

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

### **4. Background**

If there is sufficient evidence to prove unauthorized development (UD) on site under the Town Planning Ordinance, the Site would be subject to planning enforcement action.

### **5. Previous Applications**

- 5.1 The Site involves 5 previous applications (Nos. A/YL-LFS/26, 38, 123, 134 and 321)(**Plan A-1b**) for various uses. Applications No. A/YL-LFS/26, 38, 123 and 134 were rejected while Application No. A/YL-LFS/321 was approved. Details of these applications and the Rural and New Town Planning Committee (the Committee)’s/ Board’s decisions are summarized at **Appendix II** and their locations are shown on **Plan A-1b**.

#### **Rejected Applications**

- 5.2 Applications No. A/YL-LFS/26, 38 and 123 for temporary open storage of various materials and No. A/YL-LFS/134 for temporary plastic recycling workshop were all rejected by the Committee/the Board between 1998 and 2005 on the grounds of not in line with the planning intentions of the “REC” and “CPA” (for Application No. A/YL-LFS/26 only) zones, not compatible with the surrounding areas, insufficient information in the submission to demonstrate no adverse traffic and drainage impacts, not in line with the then TPB PG-No. 13C for ‘Application for Open Storage and Port Back-up Uses’ and setting an undesirable precedent for similar applications.

#### **Approved Application**

- 5.3 The last application (No. A/YL-LFS/321) covering a slightly smaller site for the same use with similar layout submitted by the same applicant was approved by the Committee on 6.7.2018 for a period of 3 years on the considerations of not frustrating the planning intention of the “REC” zone, not incompatible with the surrounding uses of the area, no adverse comments or objections from concerned

Government departments and in line with the Committee's previous decisions. However, the permission was revoked on 6.12.2020 due to non-compliance with approval conditions regarding the implementation of drainage and FSIs proposals.

## 6. **Similar Applications**

- 6.1 Within the same "REC" zone, there are 6 similar applications (No. A/YL-LFS/91, 214, 223, 261, 295 and 361) covering three sites for temporary warehouse uses. Four of them (Applications No. 223, 261, 295 and 361) were approved while the other two (Applications No. A/YL-LFS/91 and 214) were rejected. Details of the applications and the Committee's decisions are summarized at **Appendix III** and their locations are shown on **Plan A-1a**.

### *Approved Applications*

- 6.2 Applications No. A/YL-LFS/223, 261, 295 and 361 for temporary warehouse for storage of animal feed on the same site were approved by the Committee between 2011 and 2020 on the grounds of not frustrating the planning intention of the "REC" zone, not incompatible with the surrounding uses of the area, no adverse comments from concerned Government departments, in line with the Committee's previous decisions and/or in line with the TPB PG-No. 34C in that there has been no material change in planning circumstances since the granting of the previous approval. Amongst these approvals, one of which (Application No. A/YL-LFS/223) was subsequently revoked due to non-compliance with approval condition regarding the implementation of FSIs proposal.

### *Rejected Applications*

- 6.3 Application No. A/YL-LFS/91 for warehouse use (storage of cleaning materials, soda powder, urea, refined salt, etc.) and Application No. A/YL-LFS/214 for warehouse (storage of recycling materials) with ancillary workshop uses (involving the use of heavy goods vehicles) were rejected by the Board upon review and the Committee in 2002 and 2010 respectively on the grounds of not in line with the planning intention of the "REC" zone; no/insufficient information to demonstrate no adverse environmental, ecological, traffic, drainage or landscape impacts on the surrounding area; adverse comments from concerned Government departments; setting undesirable precedent for similar applications and the cumulative impacts of which would result in a general degradation of the environment of the "REC" zone.

## 7. **The Site and Its Surrounding Areas** (Plans A-1 to A-4)

- 7.1 The Site is:

- (a) currently occupied by the applied use; and
- (b) accessible via a local track leading from Deep Bay Road (**Plans A-2 and A-3**).

- 7.2 The surrounding areas have the following characteristics:

- (a) to its north are storage yard and parking of trailers which are suspected UD, chicken shed and vacant land;
- (b) to its east and northeast are open storage/storage yards, one of which is suspected UD, a residential dwelling which is about 14m away and vacant land. To its further southeast across Deep Bay Road is open storage of recycling material which is suspected UD;
- (c) to its west is open storage of recycling materials which is suspected UD; and
- (d) to its south are open storage of recycling materials, warehouses and parking of trailers which are suspected UD. To it further southwest is temporary warehouse for storage of animal feed with valid planning permission (Application No. A/YL-LFS/361).

## **8. Planning Intention**

The planning intention of 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.

## **9. Comments from Relevant Government Departments**

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

### **Land Administration**

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) The private lot covered by Short Term Waiver (STW) in the Site is listed below:

<u>Lot No.</u>	<u>STW No.</u>	<u>Purpose</u>
2019	4963	Temporary Warehouse for Storage of Plastic and Retail of Plastic Pellet

- (c) Should planning application be approved, the STW holder will need to immediately apply to his office for modification of the STW conditions where appropriate. The lot owner(s) of the lots without STW will need to immediately apply to his office for

permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by LandsD.

### **Traffic**

#### 9.1.2 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 spaces shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from the public roads.
- (c) The local track leading to the Site is not under Transport Department (TD)'s 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.

#### 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 Deep Bay Road.

### **Environment**

#### 9.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) He has no objection to the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) The applicant is advised to follow the latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites" (COP) issued by the DEP to minimize potential environmental nuisance to the surrounding area.

## **Landscape**

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

#### **Urban Design**

- (a) Given that the scale of the application is a low-rise development and is temporary in nature, the applied use is not anticipated to generate adverse visual impact.

#### **Landscape**

- (b) With reference to the aerial photo of 2020, the Site is located in an area of rural coastal plains landscape character predominated by woodlands, warehouses and temporary structures in the proximity. According to the site photos taken on 31.3.2021, the Site is hard paved with existing temporary structures at western part of the Site. A few existing trees are found at north-eastern and south-eastern boundary of the Site. Significant change to the landscape character and impact on the landscape resources arising from the applied use is not anticipated. As such, she has no objection to the application from landscape planning perspective.
- (c) With reference to the proposed landscape and tree preservation plan of the planning statement, existing *Bauhinia blakeana* (洋紫荊) are proposed to be preserved. However, the locations of the trees are illegible on plan. Also, according to the previous approved proposed landscape plan in the last application No. A/YL-LFS/321, the trees should be *Melaleuca leucadendron* (白千層) instead of *Bauhinia blakeana* (洋紫荊).
- (d) In view that the Site is not facing any prominent public frontage and implementation of landscape proposal has been fully complied with under A/YL-LFS/321, it is recommended to impose a condition to maintain all existing trees within the Site in good condition for the duration of planning approval period should the application be approved by the Board.

## **Drainage**

### 9.1.6 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 application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

- (c) The applicant should be reminded of the detailed comments at **Appendix V**.

### **Building Matters**

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

- (a) As there is no record of approval granted by the Building Authority (BA) 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 V**.

### **Fire Safety**

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

- (a) He has no objection in principle to the proposal subject to FSIs being provided to his satisfaction.
- (b) The applicant should be reminded of the detailed comments at **Appendix V**.

### **Geotechnical**

9.1.9 Comments of the Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD):

He has no adverse comment on the application. The applicant should be reminded to submit the proposed building work plans to BD for approval as required under the provisions of the Buildings Ordinance.

### **District Officer's Comment**

9.1.10 Comment 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) Project Manager (West), CEDD (PM(W), CEDD);
- (c) Chief Engineer/Land Works, CEDD (CE/LW, CEDD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Chief Engineer/Sewage Projects, Drainage Services Department (CE/SP, DSD);
- (f) Director of Leisure and Cultural Services (DLCS);
- (g) Commissioner of Police (C of P); and
- (h) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

## **10. Public Comments Received During Statutory Publication Period**

On 26.3.2021, the application was published for public inspection. During the statutory public inspection period, 2 public comments were received from individuals (**Appendices IV-1 and IV-2**) objecting to the application on the grounds that the applied use will generate possible adverse traffic, environmental and health impacts, as well as fire and personal safety problems and lead to poor quality of life for the nearby residents.

## **11. Planning Considerations and Assessments**

11.1 The application is for temporary warehouse for storage of plastic and retail of plastic pellet for a period of 3 years in the “REC” zone. The planning intention of “REC” zone is primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission. Although the applied use is not in line with the planning intention of the “REC” zone, there has yet to have any known programme to implement the zoned use on the OZP. Therefore, approval of the application on temporary basis would not frustrate the planning intention of the “REC” zone.

11.2 The Site is located in an area of rural coastal plains landscape character predominated by woodlands, warehouses and temporary structures in the proximity. The applied use is not incompatible with the surrounding uses of the area.

11.3 There is no adverse comment from concerned Government departments, including C for T, DEP, CE/MN of DSD and D of FS. The applied use will unlikely create significant adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas. To minimize any possible environmental impacts and nuisance on the surrounding area, and to address the technical requirements of the concerned Government departments, relevant approval conditions are recommended in paragraph 12.2 below. Should the planning application be approved, the applicant will be advised to follow the latest “COP” in order to minimize the potential environmental nuisance to the surrounding area.

11.4 The last application (No. A/YL-LFS/321) for the same use was approved with conditions for a period of 3 years by the Committee on 6.7.2018. Subsequently, the planning permission was revoked on 6.12.2020 due to non-compliance with the approval conditions on the implementation of drainage and FSIs proposals. The current application was submitted by the same applicant with slightly larger area and similar layout and the Site is currently occupied by the applied use. Nevertheless, the applicant has submitted drainage and FSIs proposals in the current application. As such, sympathetic consideration may be given to the application. However, should the application be approved, shorter compliance periods are recommended in order to closely monitor the progress on compliance with associated approval conditions. The applicant will be advised that should he fail to comply with any of the approval conditions resulting in revocation of planning permission, sympathetic consideration would not be given to any further applications.

11.5 Given that 1 previous approval (Application No. A/YL-LFS/321) for the same use and 4 similar applications (No. A/YL-LFS/223, 261, 295 and 361 for temporary

warehouse for storage of animal feed) have been granted in the vicinity, approval of the current application is considered in line with the Committee's previous decisions.

- 11.6 Four previous applications (No. A/YL-LFS/26, 38, 123 and 134) for open storage and/or workshop use and two similar applications (No. A/YL-LFS/91 and 214) for warehouse for storage of cleaning materials or recycling materials with/without workshop use (involving the use of heavy goods vehicles) were rejected by the Committee mainly on grounds of insufficient/no information in the submission to demonstrate no adverse traffic, drainage, environmental, ecological or landscape impacts. The current application is different in that it only involves warehouse for storage of plastic and retail of plastic pellet uses at the Site with the use of private car/light goods vehicle and no workshop use is involved.
- 11.7 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 11.6 are relevant.

## **12. Planning Department's Views**

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10, the Planning Department considers that the temporary warehouse for storage of plastic and retail of plastic pellet could be tolerated for a period of 3 years.
- 12.2 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 **14.5.2024**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval conditions

- (a) no operation between 6:00 p.m. to 9:00 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) only private cars and light goods vehicles as defined in the Road Traffic Ordinance, as proposed by the applicant, are allowed to be parked on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) no workshop activity and open storage of materials, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (f) the submission of a revised drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.8.2021**;

- (g) in relation to (f) above, the implementation of the 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 **14.11.2021**;
- (h) in relation to (g) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (i) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;
- (j) the submission of a revised fire service installations proposal within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.8.2021**;
- (k) in relation to (j) above, the implementation of the revised fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.11.2021**;
- (l) the provision of fencing within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **14.8.2021**;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (h) or (i) 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 conditions (f), (g), (j), (k) or (l) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice.

#### Advisory Clauses

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

- 12.3 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 "Recreation" zone, which is primarily for recreational developments for the use of the general public. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

### **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 reason(s) for rejection should be given to the applicant.

#### **14. Attachments**

<b>Appendix I</b>	Application Form received on 15.3.2021
<b>Appendix Ia</b>	Further Information received on 6.5.2021
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications within the same “REC” zone on the Lau Fau Shan and Tsim Bei Tsui OZP
<b>Appendices IV-1 and 2</b>	Public Comments Received During Statutory Publication Period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Location Plan with Vehicular Access
<b>Drawing A-2</b>	Proposed Layout Plan
<b>Drawing A-3</b>	Proposed Landscape and Tree Preservation Plan
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Drawing A-5</b>	Discharge Path to Existing Natural Stream Plan
<b>Drawing A-6</b>	Proposed Fire Service Installations Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Location Plan with Previous Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2021**