

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/432

- Applicant** : Mr. Chen Zoudian represented by Mr. Wong Sun Wo William
- Site** : Lots 1263, 1264, 1283, 1284, 1286 and 1287 in D.D. 129 and Adjoining Government Land (GL), Tsim Bei Tsui, Yuen Long, New Territories
- Site Area** : About 7,250m² (including GL of about 270m² or 3.7%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/11
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Recyclable Collection Centre (Plastics and Aluminium) with Ancillary Office and Workshop for a Period of 3 years, and Filling and Excavation of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of 3 years, and filling and excavation of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “GB” on the approved Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/11. According to the covering Notes of the OZP, temporary use or development of any land or building 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 in terms of the OZP. Besides, filling and excavation of land within the “GB” zone also require planning permission from the Board. The Site is currently concrete-paved, covered by an open shed and temporary structures, and largely vacant (**Plans A-2 and A-4a to A-4d**). The Site is not involved in any previous application.
- 1.2 The Site is accessible from Deep Bay Road via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises 2 structures of 1 to 2 storeys (about 6m to 8m) high, with a total floor area of about 4,557m². The structures are for recyclable collection centre and office uses. The ingress/egress point is located at the northeast of the Site. 2 parking spaces for private cars, and 2 for light goods vehicles are provided. No loading/unloading space is provided.
- 1.3 According to the applicant, the operation hours would be between 8 a.m. and 6 p.m.

from Mondays to Saturdays. There would be no operation on Sundays and public holidays. Waste plastics would be transported to the Site for simple processing¹, manual sorting and pressing before delivering to other workshops for further processing (e.g. shredding). Waste aluminium would also be transported to the Site for cleaning and polishing before delivering to the Mainland China.

- 1.4 Moreover, the applicant would like to regularise the land filling works and apply for the proposed land excavation works on the Site. As shown on the land filling and excavation plan at **Drawing A-3**, an area of about 1,800m² (or 24.8%) has been filled with concrete of about 0.15m in depth². In addition, the applicant proposes to excavate a strip of land mainly along the periphery of the Site (with an area of 300m² (or 4.1%) and a depth of about 0.15m to 0.3m) for the proposed drainage works.
- 1.5 The layout plan, vehicular access plan, land filling and excavation plan and drainage plan are at **Drawings A-1 to A-4** respectively.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 4.7.2022 (Appendix I)
 - (b) Supplementary Information (SI) received on 7.7.2022 (Appendix Ia)
 - (c) Further Information (FI) received on 12.7.2022* (Appendix Ib)

** accepted and 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 and SI at **Appendices I and Ia**. They can be summarised as follows:

- (a) Due to the developments in the New Territories, very little land is available for recyclable collection use.
- (b) The Site is located far away from residential area.
- (c) The Site is erected with structures which have been abandoned for a long period of time. The applicant intends to utilise the existing structures for the applied use. No further alteration or modification works on the structures would be undertaken. No adverse impact on the surrounding environment would be caused.
- (d) The Site was previously used for pig breeding farm. However, the pig breeding industry cannot survive under the current economic environment in Hong Kong.

¹ No detail is provided in the submission (**Appendix Ia**) as to what the term 'simple processing' actually means.

² Although the Site is currently entirely concrete-paved, the applicant claims that majority of the Site was used for pig farm before and had all along been concrete-paved. Hence, he intends to regularise only the additional concrete paving to the east of the Site as shown on **Drawing A-3**.

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 obtaining consent from the current land owner. 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. Town Planning Board Guidelines

- 4.1 Town Planning Board Guidelines for “Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are detailed at **Appendix II**.
- 4.2 According to Town Planning Board Guidelines for “Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance” (TPB PG-No. 12C), the Site falls within the Wetland Buffer Area (WBA). The relevant assessment criteria are detailed at **Appendix III**.

5. Background

The Site is the subject of an active planning enforcement action (Case No. E/YL-LFS/552) against unauthorised development (UD) involving storage use (including deposit of containers) and workshop use (**Plan A-2**). Enforcement Notices were issued to the concerned parties on 25.1.2022 and 16.6.2022 requiring the discontinuance of the UD by 25.2.2022 and 16.7.2022 respectively. The Site is being closely monitored under established practice.

6. Previous Application

The Site is not involved in any previous planning application.

7. Similar Application

There is no similar application for recyclable collection centre use within the subject “GB” zone.

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

8.1 The Site is:

- (a) entirely concrete-paved, and largely covered by an open shed and other temporary structures. There is a semi-sunken loading dock (Photo 6 of **Plans A-4b** and Photo 12 of **Plan A-4e**) at the open area at the east of the Site; and

- (b) located to the south of Deep Bay Road, and is accessible via a local track on GL and private lots branching off Deep Bay Road.
- 8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to enforcement action by the Planning Authority:
- (a) to the northwest are a warehouse and a vacant structure;
 - (b) to the northeast and east is a woodland intermixed with a pond and a ruin. Part of the woodland falls within the Tsim Bei Tsui Egrettry Site of Special Scientific Interest (SSSI). To the further east at about 90m away are the mangroves and ponds falling within the Inner Deep Bay SSSI;
 - (c) to the south is agricultural land, part of which is cultivated while part is laid fallow; and
 - (d) to the west are woodland and cultivated agricultural land.

9. Planning Intention

- 9.1 The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 As filling of land/pond or excavation of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices IV and V** respectively.
- 10.2 The following government departments have concerns, adverse comments or objection to the application:

Traffic

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

- (a) The traffic of the Site would be through a local track leading to Deep Bay Road which is a single track road. Although the applicant claims that only trips of light goods vehicles and private cars are generated, it is noted that container vehicles were found at the Site which had been occupied by the applied use (Photo 11 of **Plans A-4d** and Photo 12 of **Plan A-4e**). The applicant should clarify whether the applied

use would generate traffic involving medium and heavy goods vehicles.

- (b) The applicant is requested to justify that the nearby public road network has adequate capacity to accommodate the traffic induced by the applied use at the Site. In particular, the traffic impact on the local road should be well assessed as a result of the applied use, since it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available.

Environment

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

- (a) There were 5 substantiated environmental complaints on air pollution aspect pertaining to the Site in 2021, which were against the recycling facility that had been operating at the Site. Air Pollution Abatement Notice under the Air Pollution Control Ordinance (Cap. 311) was issued to the concerned recycling operator in end-2021, and prosecution action against the operator is ongoing.
- (b) Although the Site has now been vacated, it is noted from the submission that the applicant is the same as the operator of the previous recycling facility. Given the poor operation history of the operator, he objects to the application.

Landscaping

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

- (a) The Site is situated in area of rural coastal plains predominated by temporary structures, village houses, farmland, ponds and woodland. The Site is hard paved and occupied by, inter alia, a large temporary structure. Some trees at the northern portion are observed. The proposed filling of land under application has already been completed. The applied use had been in operation.
- (b) By comparing the aerial photos taken between 2019 and 2021 (**Plans A-3a to A-3c**), vegetation clearance (including tree felling) and concrete paving were observed within the Site. Significant adverse landscape impact arising from the applied development had taken place. No information is provided in applicant's submission on mitigation of the adverse landscape impact arising from the applied development.
- (c) The "GB" zone is primarily intended to promote conservation of the natural environment, including the Inner Deep Bay SSSI, the Tsim Bei Tsui Egrettry SSSI and existing ponds located in close proximity to the Site. Moreover, there is no similar application for recyclable collection centre use previously approved in the same "GB" zone. The applied development is considered incompatible with the

surrounding landscape setting from landscape planning perspective.

District Officer's Comments

10.2.4 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

He has consulted the locals regarding the application. A local comment from the Village Representative of Mong Tseng Wai, which is also co-signed by 14 villagers (**Appendix VI**) was received objecting to the application on grounds that workshop at the Site involved burning of plastics, and had generated severe odour, mechanical noise and sewage which has adversely affected the village; the applied development is not suitable at the protected “GB” zone; the traffic generated by the applied development would induce pedestrian-vehicular conflict at the access road which is substandard; approval of the application would open the flood gate for similar applications; and the applied use would adversely affect the fung shui of the burial ground of the villagers in the vicinity of the Site.

11. Public Comments Received During Statutory Publication Period

On 12.7.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments were received from the Kadoorie Farm & Botanic Garden Corporation and 2 individuals (**Appendices VII-1 to VII-3**) objecting to the application mainly on grounds that the applied development is not in line with the planning intention of the “GB” zone; the Site has been damaged by the applied development; the Site is even closer to the Tsim Bei Tsui Egrettry SSSI than another application (No. A/YL-LFS/422) (**Plan A-2**) for similar brownfield uses which was recently rejected by the Committee, and that the applied use would generate adverse traffic, environmental and fire safety impacts.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of 3 years, and filling and excavation of land at the Site. The Site falls within the “GB” zone (**Plan A-1**), which is primarily intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. Moreover, filling and excavation of land within the “GB” zone require planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The proposed use and associated filling and excavation of land are not in line with the planning intention of the “GB” zone. There is no strong planning justification given in the submission for a departure of such planning intention.

12.2 The Site is located in an area predominated by woodland. To its immediate east is the Tsim Bei Tsui Egrettry SSSI while to its further east are the mangroves and ponds of the Inner Deep Bay SSSI (**Plan A-3a** and Photo 11 of **Plan A-4d**). Although there is a warehouse to the northwest of the Site, it is a suspected UD subject to enforcement action by the Planning Authority. Although the Director of Agriculture,

Fisheries and Conservation has no comment on the application from nature conservation perspective, the proposed use and associated filling and excavation of land which had involved vegetation clearance and extensive hard-paving are considered not compatible with the surrounding areas.

- 12.3 According to the TPB PG-No. 10, an application for new development within “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds. The development should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape. The development should also not be the source of pollution.
- 12.4 Although the applicant claims that only the existing structures are utilised, District Lands Officer of Lands Department advised that the structures erected on the Site since around 1994³ were not subject to any approval by his office. Moreover, aerial photos between 2019 and 2021 (**Plans A-3a to A-3c**) show that the ruins on the Site was redeveloped, whilst vegetation was cleared and extensive site formation through concrete-paving was undertaken at the eastern portion of the Site. In this regard, CTP/UD&L of PlanD considers that significant adverse landscape impact had taken place. She also considers that the proposed use and associated filling and excavation of land is not compatible with the surrounding landscape setting.
- 12.5 DEP objects to the application. There were 5 substantiated environment complaints on air pollution aspect pertaining to the Site in 2021, which were against the recycling facility that had been operating at the Site. Air Pollution Abatement Notice under the Air Pollution Control Ordinance was issued to the recycling operator in end-2021, and prosecution action against the operator is on-going. In this regard, noting the applicant is the same as the operator of the previous recycling facility, DEP objects to the application given the poor operation history of the operator.
- 12.6 In view of the discussion in paragraphs 12.3 to 12.5 above, the proposed use and the associated filling and excavation of land are considered not in line with TPB PG-No. 10.
- 12.7 As for the traffic aspect, although the applicant claims that only private cars and light goods vehicles trips would be generated by the proposed use, it is noted that the proposed use had been in operation at the Site and generated container vehicles trips (Photo 11 of **Plans A-4d** and Photo 12 of **Plan A-4e**). In this connection, C for T concerns whether the nearby public road network has adequate capacity to accommodate the traffic induced by the applied use, particularly when it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available. However, the applicant has not provided information to address the above traffic concerns. Hence, there is insufficient information to assess whether the proposed use would not have adverse traffic impact on the surrounding area.
- 12.8 Other concerned departments including Chief Engineer/Mainland North of Drainage Services Department, Head of the Geotechnical Engineering Office of Civil Engineering and Development Department and Director of Fire Services have no objection to or no comment on the proposed use and associated filling and excavation

³ Aerial photo taken in 1993 (**Plan A-3d**) (i.e. after the first gazettal of the Lau Fau Shan and Tsim Bei Tsui Interim Development Permission Area Plan in 1990) revealed that the Site was vacant and covered with vegetation.

of land from drainage, geotechnical and fire safety perspectives.

- 12.9 There is no previous planning application covering the Site, nor is there any similar application for recyclable collection centre use within the same “GB” zone. Approval of the application would set an undesirable precedent and encourage proliferation of similar developments within the same “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the natural environment of the area, thereby frustrating the planning intention of the “GB” zone.
- 12.10 Regarding the local views conveyed by DO/YL of HAD and 3 public comments received objecting to the application as stated in paragraphs 10.2.4 and 11 respectively, the planning considerations and assessments in paragraphs 12.1 to 12.9 above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the local views and public comments mentioned in paragraphs 10.2.4 and 11 respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed use and associated filling and excavation of land are not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention;
 - (b) the proposed use and associated filling and excavation of land are not in line with the Town Planning Board Guidelines for ‘Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the proposed use and associated filling and excavation of land are considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use and associated filling and excavation of land would not have significant adverse environmental and landscape impacts on the surrounding areas; and
 - (c) the applicant fails to demonstrate that the proposed use would not generate adverse traffic impact on the surrounding areas.
- 13.2 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 **26.8.2025**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 6:00 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 vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (d) no shredding, pulverizing, melting and burning activity is allowed on the Site during the planning approval period;
- (e) the implementation of environmental mitigation measures, including but not limited to the noise and air pollution control measures for processing and/or stockpiling of plastics and aluminium wastes, and treatment facilities for wastewater arising from washing, cleaning, and/or processing of plastics and aluminium wastes, within **9 months** from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by **26.5.2023**;
- (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 **26.2.2023**;
- (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 **26.5.2023**;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) the submission of a proposal for water supplies for firefighting and fire service installations within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **26.2.2023**;
- (j) in relation to condition (i) above, the provision of water supplies for firefighting and fire service installations within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **26.5.2023**;
- (k) if any of the above planning condition (a), (b), (c), (d) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (l) if any of the above planning condition (e), (f), (g), (i) or (j) 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
- (m) 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 V**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant planning permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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 permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form received on 4.7.2022
Appendix Ia	Supplementary Information received on 7.7.2022
Appendix Ib	Further Information received on 12.7.2022
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Extracts of Town Planning Board Guidelines for Application for Development within Deep Bay Area (TPB PG-No. 12C)
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Local Views conveyed by District Officer/Yuen Long
Appendices VII-1 to VII-3	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Land Filling and Excavation Plan
Drawing A-4	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a to A-3d	Aerial Photos taken in 2021, 2020, 2019 and 1993
Plans A-4a to A-4e	Site Photos

**PLANNING DEPARTMENT
AUGUST 2022**