

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/443

- Applicant** : Mega Rich Logistics Limited represented by Hing Yip Realty Advisory Limited
- Site** : Lot 2842 RP in D.D.129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,450 m²
- 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”)¹
- Application** : Proposed Temporary Open Storage of Building Materials 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 building materials for a period of 3 years (**Plans A-1a and A-1b**). 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 three years requires permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Besides, any filling of land/pond within the “GB” zone also requires planning permission from the Board. The Site is currently concrete-paved and used as a vehicle park without valid planning permission (**Plans 2, A-4a and A-4b**).
- 1.2 The Site is accessible from Tin Wah Road via a local track (**Drawing A-2**). As shown on the layout plan at **Drawing A-1**, the proposal comprises 4 structures of 1 storey (2.6 m to 4.5 m) high, with a total floor area of about 239 m² for open shelter for storage, site office and guard kiosk uses. An area of about 1,360m² (or 55.5%) is proposed for open storage of building materials including concrete, curtain walls, fire protection materials and structural fixings. The ingress/egress point will be located at the east of the Site. 2 parking spaces for light goods vehicle (LGV), 3 parking spaces for medium goods vehicle (MGV) and 1 loading/unloading space for heavy goods vehicle (HGV) will be provided. According to the applicant, the

¹ A minor portion at the south of the Site (about 0.3%) falls within the “Residential (Group A)” zone of the OZP, which can be considered as minor boundary adjustment in accordance with the covering Notes of the OZP.

operation hours would be between 8 a.m. to 8 p.m. from Mondays to Sundays, including public holidays. The layout plan and vehicular access plan are at **Drawings A-1 and A-2** respectively.

1.3 The Site is involved in 2 previous applications (No. A/YL-LFS/9 and 39) (details at paragraph 6 below).

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

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|-----|--|---------------|
| (a) | Application Form received on 17.8.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 30.8.2022 | (Appendix Ia) |
| (c) | SI received on 2.9.2022 | (Appendix Ib) |
| (d) | SI received on 5.9.2022 | (Appendix Ic) |
| (e) | Further Information (FI) received on 28.9.2022* | (Appendix Id) |

** accepted and exempted from publication/recounting 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 the SI at **Appendices I and Ic**. They can be summarised as follows:

- (a) Given the size and the current condition of the Site, agricultural use is not practical.
- (b) There are shortages of sites for warehouse and open storage uses in the area.
- (c) The Site is easily accessible and the applied use will not create any noise.
- (d) Patrolling services will be provided for security purposes.
- (e) There was no pond at the Site when the applicant purchased the Site in 2018. The applicant shall assume no responsibility over the pond filling works carried out at the Site before.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 10 for “Application for Development within the Green Belt Zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10), as well as No. 13F for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 4 area under

the TPB PG-No. 13F. The relevant extract of the Guidelines are attached at **Appendices II and III** respectively.

5. **Background**

5.1 The Site was largely a pond when the pond filling restriction was first introduced with the gazettal of the draft Lau Fau Shan and Tsim Bei Tsui OZP No. S/YL-LFS/1 on 10.6.1994. The Site was subject to a previous application (No. A/YL-LFS/9) for pond filling for agricultural use (fruit tree plantation) approved with conditions on 23.8.1996. Subsequently, another previous application (No. A/YL-LFS/39) for recreational uses was approved with conditions on 14.5.1999, of which all the ponds (including the one at the Site) were proposed to be retained. Notwithstanding the above, the pond at the Site was subsequently filled by 2000 after the planning permission under Application No. A/YL-LFS/9 lapsed² (**Plans A-3b to A-3d**).

5.2 The vehicle park use on the Site would be subject to planning enforcement action.

6. **Previous Applications**

6.1 The Site is the subject of 2 previous applications. Application No. A/YL-LFS/9 for pond filling for agricultural use (fruit tree plantation) within the “GB” and the then “Residential (Group C)” zones covering a much larger site area was approved with conditions by the Committee on 23.8.1996 mainly on the considerations that the proposal was in line with the planning intention of the “GB” zone and compatible with the surrounding area; ‘Agricultural use (fruit tree plantation)’ was a Column 1 use within the “GB” zone; there was no adverse comments from concerned government departments on ecological and drainage aspects; and the technical concerns could be addressed by approval conditions. The pond filling works had not been fully implemented during the validity period of the planning permission (**Plan A-3c**).

6.2 Application No. A/YL-LFS/39 for recreational uses including barbecue spot, playground, refreshment kiosk, visitor centre, public car park and ancillary uses within the “GB” and “Village Type Development” zones covering a much larger site area was approved with conditions on a permanent basis by the Committee on 14.5.1999 mainly on considerations that the development was primarily rural in character and did not involve filling of existing ponds; the proposed development was compatible with the surrounding land uses; it helped to reinstate the deteriorating rural environment in the context of decline in pond fish farming and agricultural activities; there was no adverse comment from concerned government departments; and the technical concerns could be addressed by approval conditions.

6.3 As compared with the last approved previous applications, the current application is submitted by a different applicant for a different use at a smaller site. Details of these previous applications are summarised in **Appendix IV** and their locations are

² According to approval condition (b) of the application, the permission shall cease to have effect on 23.8.1998 unless prior to the said date either the development hereby permitted is commenced or this permission is renewed.

shown on **Plan A-1b**.

7. Similar Applications

Within/straddling the same “GB” zone, there are 4 similar applications (No. A/YL-LFS/346, 358, 373 and 416) for temporary open storage of various materials with or without warehouse and filling of land in the past 5 years. All of them were rejected by the Committee between 2019 and 2022 mainly on grounds of not in line with the planning intention and relevant Town Planning Board Guidelines; not compatible with the surrounding area; failure to demonstrate no adverse traffic, environmental, landscape and/or slope safety impacts; and/or setting of undesirable precedent. Details of the similar applications are summarised in **Appendix IV** and their locations are shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) concrete-paved, largely fenced off, and used as a vehicle park without valid planning permission; and
- (b) accessible via a local track on Government Land (GL) branching off from Tin Wah Road to its south.

8.2 The surrounding areas have the following characteristics:

- (a) to the east across the local track is Tin Ying Road and the Tin Shui Wai Nullah; to the further east across the Tin Shui Wai Nullah is Tin Yan Estate of the Tin Shui Wai New Town;
- (b) to the south across the local track is a site falling within the “Residential (Group A) 1” (“R(A)1”) zone of the Tin Shui Wai OZP, which is covered by a Temporary Government Land Allocation (TGLA) No. GLA-TYL-3471 allocated to Civil Engineering and Development Department (CEDD) for works area for site formation and infrastructure works in relation to public housing development at Wang Chau;
- (c) to the southwest is a public vehicle park covered by valid planning permission under application No. A/YL-LFS/394; to the further southwest are a permitted vehicle park falling within the “R(A)” zone, shrubland and vacant land. To the further west and northwest is the recognised village of Sha Kong Wai; and
- (d) to the north is a recreational development named Tin Shui Wai Greenfield Garden covered by valid planning permission under Application No. A/YL-LFS/424.

9. Planning Intention

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.

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 are provided in **Appendices V and VI** respectively.

10.2 The following government departments have adverse comments on the application:

Environment

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

- (a) She does not support the application as the applied development involves heavy vehicles and there are sensitive receivers, i.e. residential dwellings located to the north and to the west of the Site (the closest residential dwelling being about 85m away) (**Plan A-1b**). Environmental nuisance is expected.
- (b) There is no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) The applicant should be reminded of the advisory comments at **Appendix VI**.

Landscaping

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

- (a) The Site is situated in area of miscellaneous rural fringe predominated by residential blocks, public vehicle parks, vacant land, graveyard, pond and scattered tree groups.
- (b) The Site is hard paved and existing trees along the northwestern periphery are observed. No information on existing landscape resources and proposed treatment on existing trees are provided in the application.
- (c) The “GB” zone is primarily intended to promote the conservation of the natural environment, and an existing pond is located in close proximity to the Site. Moreover, there is no similar application for open storage uses approved in the same “GB” zone. There is concern

that approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment. The proposed open storage is considered incompatible with the surrounding landscape setting from landscape planning perspective.

11. Public Comments Received During the Statutory Publication Period

On 9.9.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments were received from Kadoorie Farm and Botanic Garden Corporation and 2 individuals (**Appendices VIII-1 and VIII-3**) objecting to the application mainly on grounds that the proposed open storage use is not in line with the planning intention of the “GB” zone; it is incompatible with the adjoining approved recreational development; and it would generate adverse traffic, environmental and fire safety impacts.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of building materials for a period of 3 years at the Site. The Site falls within the “GB” zone of the OZP (**Plan A-1a**), 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. The proposed open storage use is 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 the planning intention, even on a temporary basis.
- 12.2 The Site was previously occupied largely by a pond (**Plan A-3d**). It was involved in 2 approved previous applications for pond filling for permitted agricultural use (No. A/YL-LFS/9) and recreational uses (No. A/YL-LFS/39) approved in 1996 and 1999 respectively (**Plan A-1b**). The pond at the Site was subsequently filled by 2000 after the planning permission under Application No. A/YL-LFS/9 lapsed (**Plans A-3b to A-3d**).
- 12.3 The Site is currently paved and situated in between the recognised village of Sha Kong Wai to its west, and Tin Yan Estate of the Tin Shui Wai New Town to its east. It is immediately surrounded mainly by vehicle parks and a recreational development. Although there is a works area deposited with construction materials and machineries to the south, it falls within the “R(A)1” zone of the Tin Shui Wai OZP, and is covered by TGLA allocated to CEDD as works area for public housing development. The proposed open storage use is considered not compatible with the surrounding land uses.
- 12.4 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 design and layout of any proposed development within “GB” zone should be

compatible with the surrounding area. The development should also not be the source of pollution. In these regards, no information is provided as to how the existing trees along the northwestern periphery of the Site would be treated. CTP/UD&L of PlanD considers that the proposed development is incompatible with the surrounding landscape setting, and concerns that approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment. Moreover, DEP does not support the application as the proposed use involves operation of heavy vehicles and there are sensitive receivers (i.e. residential dwellings) to the north and to the west of the Site. As such, the proposed use is considered not in line with TPB PG-No. 10.

- 12.5 The Site falls within Category 4 areas under the TPB PG-No. 13F for ‘Application for Open Storage and Port Back-up Uses’. The following considerations in the Guidelines are relevant:

Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

- 12.6 The proposed use is not in line with TPB PG-No. 13F in that the Site falls within Category 4 areas and the Site was not involved in any previous approvals for open storage use; there are no exceptional circumstances to justify for the proposed use; and there are adverse comments from CTP/UD&L of PlanD and DEP on landscape and environmental aspects.
- 12.7 Other concerned departments including DAFC, C for T, CE/MN of DSD and D of FS have no objection to or no comment on the proposed development from nature conservation, traffic, drainage and fire safety perspectives.
- 12.8 There is no previous application for open storage use approved at the Site. Moreover, no approval for similar applications for open storage use has been granted by the Committee 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. Rejecting the subject application is in line with the previous decisions of the Committee.
- 12.9 Regarding the public comments objecting to the application as stated in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.8 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 public comments mentioned in paragraph 11 above, 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 “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, even on a temporary basis;
- (b) the proposed use is 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 is considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use would not have significant adverse environmental and landscape impacts on the surrounding areas;
- (c) the proposed use is not in line with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) in that the Site falls within Category 4 areas and there is no previous planning approval for open storage use; and there are adverse departmental comments on environmental and landscape aspects; and
- (d) approval of the application would set an undesirable precedent for similar applications for open storage use within the “GB” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

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 **14.10.2025**. 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (c) the setting back of the Site from the resumption limit of Public Works Programme Item No. B847CL - Site Formation and Infrastructure Works for Public Housing Development at Tin Wah Road, Lau Fau Shan (Road Works);

- (d) 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 **14.4.2023**;
- (e) in relation to (d) 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 **14.7.2023**;
- (f) in relation to (e) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the provision of fire extinguisher(s) with a valid fire certificate (FS 251) 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 **25.11.2022**;
- (h) the submission of a 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 **14.4.2023**;
- (i) in relation to (h) above, the implementation of the fire service installations proposal within **9 months** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.7.2023**;
- (j) if any of the above planning condition (a), (b), (c) or (f) 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;
- (k) if any of the above planning condition (d), (e), (g), (h) or (i) 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
- (l) 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 VI**.

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 17.8.2022
Appendix Ia	Supplementary Information Received on 30.8.2022
Appendix Ib	Supplementary Information Received on 2.9.2022
Appendix Ic	Supplementary Information Received on 5.9.2022
Appendix Id	Further Information Received on 28.9.2022
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix IV	Previous and Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	'Good Practice for Open Storage Sites' by the Fire Services Department
Appendices VIII-1 to VIII-3	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Location Plan with Previous Applications
Plan A-2	Site Plan
Plans A-3a to A-3d	Aerial Photos in 2021, 2000, 1999 and 1997
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**