

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/466

- Applicant** : 黃金祥 (Mr.)
- Site** : Lots 603 RP (Part), 614 (Part), 615 (Part), 616 (Part), 617 and 618 (Part) in D.D. 129 and adjoining Government Land (GL), Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,853m² (including GL of about 422m² or 14.8%)
- 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** : Temporary Recycling Workshop (Scrap Metals, Plastics, Papers and Electronics) for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary recycling workshop (scrap metals, plastics, papers and electronics) for a period of three years and filling of land at the application site (the Site) (**Plan A-1**) zoned “GB” on the OZP. 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 planning permission from the Town Planning Board (the Board). Besides, filling of land within the “GB” zone also requires planning permission from the Board. The Site is currently concrete-paved, erected with structures, and used for the applied use without valid planning permission (**Plans A-4a to A-4d**).
- 1.2 As shown on the vehicular access plan at **Drawing A-2**, the Site is accessible from Deep Bay Road via an access track, with the ingress/egress located at the west of the Site. As shown on the layout plan at **Drawing A-1**, three single-storey structures (about 2.4m in height) with a total floor area of about 2,120.82m² are used for recycling workshop, electricity meter room and toilet purposes. Two loading/unloading spaces for medium goods vehicles and container vehicles respectively are provided.
- 1.3 As indicated in the submission, the temporary recycling workshop involves collection, storage, sorting and packing of scrap metals, plastics, papers and electronics. It also involves activities such as compression and shredding of plastics, as well as dismantling of electronics. No washing, burning, melting and use of

chemicals would be involved. The operation hours would be between 9:30 a.m. and 6 p.m. from Mondays to Saturdays. There would be no operation on Sundays and public holidays.

- 1.4 Moreover, the applicant would like to regularise the land filling works on the Site. As shown on the land filling plan at **Drawing A-3**, the applied land filling works covers the entire Site (about 2,853m²) which has been filled with concrete of about 0.12m in depth.
- 1.5 The Site is the subject of two previous applications (No. A/YL-LFS/259 and 280) for temporary warehouse for plastic and paper products for a period of three years, both of which were rejected by the Rural and New Town Planning Committee (the Committee) of the Board in 2014 and 2015 respectively (details at paragraph 6 below).
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form received on 29.3.2023 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 12.4.2023 **(Appendix Ia)**
 - (c) Further Information (FI) received on 8.5.2023* **(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 at **Appendix I**. They can be summarised as follows:

- (a) the applicant's business has been hard hit by the social unrest and the pandemic, and the applicant had borrowed a substantive sum to sustain his business. The use at the Site was recently subject to planning enforcement action which required immediate discontinuation of his business. Approval of the application would bring hope for his family's survival without the need for Government's financial assistance;
- (b) the applicant's business is law-abiding, and has followed stringent operational requirements to ensure employees' safety and to facilitate environmental protection; and
- (c) the applied development echoes the national ideology of environmental protection, and could share the government's responsibility of protecting the environment.

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 Ordinance (TPB PG-No. 31A) by obtaining consent from the current land owners. 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

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**.

5. Background

The Site is the subject of an active enforcement action (Case No. E/YL-LFS/566) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) was issued to the concerned parties on 5.12.2022 requiring the discontinuance of the UD by 5.2.2023. As the UD had not been discontinued upon the compliance expiry of the EN, prosecution action may be taken by the Planning Authority.

6. Previous Applications

- 6.1 The Site is the subject of two previous applications (No. A/YL-LFS/259 and 280) for temporary warehouse for plastic and paper products for a period of three years. Both of them were rejected by the Committee in 2014 and 2015 on grounds of being not in line with the planning intention of the “GB” zone and TPB PG-No. 10; not compatible with the surrounding areas; failure to demonstrate no adverse landscape impact, and/or setting undesirable precedent. Details of the above previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.
- 6.2 Compared with the last previous application, the current application is submitted by a different applicant at a smaller site (-689m² or -19.5%) for a different use.

7. Similar Application

Within the same “GB” zone, there was a similar application (No. A/YL-LFS/432) for proposed temporary recyclable collection centre (plastics and aluminium) with ancillary office and workshop for a period of three years and filling and excavation of land, which was rejected by the Committee on 26.8.2022 mainly on grounds of being not in line with the planning intention of the “GB” zone and TPB PG-No. 10; not compatible with the surrounding areas; and failure to demonstrate no significant adverse environmental, landscape and traffic impacts. Details of the above similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced off, entirely concrete-paved, erected with structures and used for the applied use without valid planning permission; and
- (b) accessible from Deep Bay Road to its west via an access track.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to planning enforcement action:

- (a) to the immediate north are warehouses, a trailer park and a residential dwelling. To the further north are vacant land and shrubland;
- (b) to the east is shrubland;
- (c) to the south are residential dwellings, an open storage yard, parking of vehicles, ruin, cultivated and fallow agricultural land, vacant land and shrubland. To the further south across a local track are a storage yard, cultivated agricultural land and shrubland; and
- (d) to the west across Deep Bay Road are an open storage yard and shrubland.

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

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

Land Administration

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

- (a) He has grave concerns given that there are unauthorised building works and/or uses on Lot No. 614, 615, 616 and 617 in D.D.129 which are already subject to lease enforcement actions. The lot owner(s) should remedy the lease breaches as demanded by LandsD; and
- (b) The applicant should note his advisory comments at **Appendix V**.

Environment

10.2.2 Comments of the Director of Environmental Protection:

- (a) He does not support the application as the applied development involves heavy vehicles and there are sensitive receivers, i.e. residential dwellings located in the vicinity of the Site (the closest residential dwelling being about 21m away) (**Plan A-2**). Environmental nuisance is expected.
- (b) There is no substantiated environmental complaint pertaining to the Site in the past three years.
- (c) Should the application be approved, the following approval condition is suggested to be incorporated:

no washing, burning and melting activity, and use of chemicals are allowed on the Site at any time during the planning approval period.
- (d) The applicant should note his advisory comments at **Appendix V**.

Landscaping

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

- (a) She has reservation on the application from landscape planning perspective.
- (b) The Site is situated in an area of rural landscape predominated by graveyard and woodland. The entire Site had been filled with concrete. Adverse impact on landscape resource had taken place. No information is provided in the applicant's submission on mitigation of the adverse landscape impact.
- (c) The "GB" zone is intended 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. The applied development may not be considered compatible with the surrounding landscape resources and landscape character of the area.

Traffic

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

- (a) She notes that the applied use would involve access of container vehicles and medium goods vehicles. The traffic of the Site would be through a local track leading to Deep Bay Road which is a single-track road.
- (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. In particular, the traffic impact on Deep Bay 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.

Geotechnical

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

A registered man-made slope (Feature No. 2SW-C/C38), which may affect or be affected by the applied development, is present within the Site and may have been altered. The applicant is required to submit a Geotechnical Planning Review Report (GPRR) in support of the planning application.

District Officer's Comments

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

He has consulted the locals regarding the application. Two local comments from the Indigenous Inhabitant Representative of Mong Tseng Wai and Resident Representative of Mong Tseng Tsuen (**Appendices VI-1 and VI-2**) were received objecting to the application on grounds that the applied development is not a suitable use within the “GB” zone; the polluting items stored at the Site would generate odour nuisance and pose adverse health impact; and the applied development would generate adverse traffic and fire safety impacts.

11. Public Comments Received During Statutory Publication Period

On 14.4.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from Kadoorie Farm & Botanic Garden Corporation and an individual (**Appendices VII-1 and VII-2**) were received objecting to the application mainly on grounds that the applied development is not in line with the planning intention of the “GB” zone and is an unauthorized development, and the sensitive coastal area should not be turned into brownfield uses especially in light of global warming and sea level rise.

12. Planning Considerations and Assessments

12.1 The application is for temporary recycling workshop (scrap metals, plastics, papers and electronics) for a period of three years and associated filling of land with concrete at the Site within the “GB” zone of the OZP (**Plan A-1**). There is a general presumption against development within “GB” zone. Moreover, filling of land within the “GB” zone requires planning permission from the Board as it may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment. The applied use and associated filling of land are not in line with the planning intention of the “GB” zone. There is no strong planning justification given in the submission to warrant a departure from such planning intention, even on a

temporary basis.

- 12.2 The Site is located in an area predominated by shrubland, agricultural land and temporary structures. Although there are warehouses, parking of vehicles and open storage yards in the vicinity of the Site, they are suspected UD's subject to planning enforcement action. The applied use and associated filling of land which had involved vegetation clearance and hard-paving of the entire Site 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 design and layout of any proposed development within "GB" zone should be compatible with the surrounding area. 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. The issue on compatibility has been discussed in paragraph 12.2 above. With regard to the impact on existing natural vegetation and landscape, aerial photos between 2011 and 2012 (**Plans A-3b and A-3c**) show that the western portion of the Site was cleared of vegetation and hard-paved. In this regard, CTP/UD&L of PlanD has reservation on the application from landscape planning perspective as adverse impact on landscape resource had taken place. However, no information is provided in the submission on the mitigation of the adverse landscape impact. She also considers that the applied development may not be considered compatible with the surrounding landscape resources and landscape character of the area.
- 12.4 DEP does not support the application as the applied use involves operation of heavy vehicles and there are sensitive receivers (i.e. residential dwellings) in the vicinity of the Site (the closest residential dwelling being about 21m away) (**Plan A-2**). Environmental nuisance is expected.
- 12.5 In view of the above, the applied use and associated filling of land are considered not in line with TPB PG-No. 10.
- 12.6 C for T raises concerns on whether the nearby public road network has adequate capacity to accommodate the container vehicle and medium goods vehicle traffic induced by the applied use, particularly Deep Bay Road is a single-track road and it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available. Nevertheless, the applicant has not provided any information to address C for T's concerns. Hence, the applicant fails to demonstrate that the applied use would not have adverse traffic impact on the surrounding areas.
- 12.7 H(GEO) of CEDD advises that a registered man-made slope (Feature No. 2SW-C/C38), which may affect or be affected by the applied development, is present within the Site and may have been altered. However, the applicant has not submitted a GPRR or other information to demonstrate the geotechnical feasibility of the applied development.
- 12.8 DLO/YL, LandsD expressed concerns on the application from land administration perspective as there are unauthorised building works and/or use at the Site. Other concerned departments, including the Director of Agriculture, Fisheries and Conservation, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the applied use and associated filling of land from nature conservation, drainage and fire safety

perspectives.

- 12.9 The Site is the subject of two previous applications (No. A/YL-LFS/259 and 280) for temporary warehouse for plastic and paper products for a period of three years, both of which were rejected by the Committee in 2014 and 2015 respectively on grounds of being not in line with the planning intention of the “GB” zone and TPB PG-No. 10; not compatible with the surrounding areas; failure to demonstrate no adverse landscape impact, and/or setting undesirable precedent. The Committee also rejected a similar application (No. A/YL-LFS/432) in 2022 on similar grounds. Approval of the current application would set an undesirable precedent and encourage proliferation of recycling workshops within the same “GB” zone. The cumulative effect of approving such similar applications would result in a general degradation of the 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.
- 12.10 Regarding the local views conveyed by DO/YL of HAD and the public comments received objecting to the application on grounds as summarised in paragraphs 10.2.6 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 10.2.6 and 11 respectively, the Planning Department does not support the application for the following reasons:
- (a) the applied use and associated filling 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, even on a temporary basis;
 - (b) the applied use and associated filling 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 applied use and associated filling of land are considered not compatible with the surrounding areas, and the applicant fails to demonstrate that the proposed use and associated filling of land would not have significant adverse environmental and landscape impacts on the surrounding areas;
 - (c) the applicant fails to demonstrate that the applied use would not have significant adverse traffic impact on the surrounding areas; and
 - (d) approval of the application would set an undesirable precedent for similar applications 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 three years until **19.5.2026**. 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 9:30 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 washing, burning and melting activity, and use of chemicals is allowed on the Site at any time during the planning approval period;
- (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 **19.11.2023**;
- (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 **19.2.2024**;
- (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 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 **19.11.2023**;
- (h) in relation to condition (g) 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 **19.2.2024**;
- (i) the submission of a geotechnical assessment report to assess the stability of existing geotechnical features that may affect or be affected by the applied development within **6 months** from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board by **19.11.2023**;
- (j) in relation to condition (i) above, the implementation of stabilisation/ protection measures identified in the geotechnical assessment report within **9 months** from the date of planning approval to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board by **19.2.2024**;
- (k) 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;

- (l) if any of the above planning condition (d), (e), (g), (h), (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 29.3.2023
Appendix Ia	SI received on 12.4.2023
Appendix Ib	FI received on 8.5.2023
Appendix II	Extracts of Town Planning Board Guidelines for Application for Development within Green Belt Zone (TPB PG-No. 10)
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendices VI-1 and VI-2	Local Views conveyed by District Officer/Yuen Long
Appendices VII-1 and VII-2	Public Comments Received During Statutory Publication Period
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Land Filling Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plans A-3a to A-3c	Aerial Photos taken in 2022, 2012 and 2011
Plans A-4a to A-4d	Site Photos