

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/493

- Applicant** : West & North Development Limited represented by Allgain Land Administrators (Hong Kong) Limited
- Site** : Lots 1964 S.A (Part) and 1964 S.B (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,300m²
- 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** : “Recreation” (“REC”)
- Application** : Temporary Open Storage of Hardware Accessories for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary open storage of hardware accessories for a period of three years at the application site (the Site) (**Plan A-1**) zoned “REC” 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). The Site is currently used for the applied use without valid planning permission (**Plans A-2, A-4a to A-4b**).
- 1.2 As shown on the vehicular access plan at **Drawing A-2**, the Site is accessible from Deep Bay Road via a local track, with the ingress/egress located at the southeast of the Site (**Drawing A-1**). As shown on the layout plan at **Drawing A-1**, there would be two single-storey structures (about 3m and 9m in height respectively), with a total floor area of about 260m² for storage and site office uses. An area of about 700m² (or 53.8%) is designated for open storage of hardware accessories. A loading/unloading space for light goods vehicle would be provided.
- 1.3 According to the applicant, the operation hours are between 8 a.m. and 6 p.m. from Mondays to Saturdays. There is no operation on Sundays and public holidays.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 27.9.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 29.9.2023 (**Appendix Ia**)

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| (c) | Further Information (FI) received on 26.10.2023* | (Appendix Ib) |
| (d) | FI received on 13.11.2023* | (Appendix Ic) |

** 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 applied use is temporary in nature, and the planning intention of the “REC” is unlikely to be realised in the near future. Hence, the applied use would not jeopardise the long-term planning intention;
- (b) the Site falls within the Category 2 areas under the Town Planning Board Guidelines No. 13G for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance”. The surroundings of the Site are predominated by temporary warehouses and port back-up uses, majority of which are either ‘existing use’ or covered with planning permission. The applied use is compatible with the surroundings in terms of environment and land uses;
- (c) similar applications have been approved in the vicinity of the Site. Consistent decisions should be made for the current application;
- (d) the applied use would not involve use of heavy vehicles. No adverse traffic impact would be caused to Deep Bay Road;
- (e) the applied use would not involve felling of trees. No adverse landscape impact would be caused to the surroundings; and
- (f) the proposed use would not cause adverse air quality, noise and drainage impacts on the surrounding areas.

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. 31B) by posting site notice and sending notification letter to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

Town Planning Board Guidelines No. 13G for “Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance” (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within the Category 2 areas under the TPB PG-No. 13G. The relevant extract of the Guidelines are attached at **Appendix II**.

5. **Background**

The storage use on site would be subject to planning enforcement action.

6. **Previous Application**

The Site is not involved in any previous application.

7. **Similar Applications**

- 7.1 Within the same “REC” zones, there were eight similar applications for open storage use for various items in the past five years. Four of them were approved while four were rejected by the Rural and New Town Planning Committee (the Committee). Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

Approved applications

- 7.2 Applications No. A/YL-LFS/336, 399 and 451 were approved with conditions by the Committee between 2019 and 2023 mainly on considerations that the applied use was in line with the relevant TPB PG-No. 13 in that the sites were subject to previous permissions since 1996 to 2000, and there had been no major change in planning circumstances since the granting of the previous permissions; and concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions.
- 7.3 Application No. A/YL-LFS/479 was approved with conditions by the Committee on 11.8.2023, i.e. after the site and its adjoining areas were reclassified from Category 3 to Category 2 areas under TPB PG-No. 13G, mainly on considerations that the applied use was in line with TPB PG-No. 13G in that concerned government departments generally had no objection to the application and the technical concerns could be addressed by approval conditions.

Rejected applications

- 7.4 Applications No. A/YL-LFS/326, 329, 351 and 400 were rejected by the Committee between 2018 and 2021, i.e. when the sites and its adjoining areas were still classified as Category 3 areas under TPB PG-No. 13E/F, mainly on grounds that the applied use was not in line with the planning intention; the sites were not subject to previous permissions for open storage use; and there were adverse departmental comments on environmental, traffic, landscape and/or drainage aspects.

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

8.1 The Site:

- (a) falls within the Lau Fau Shan Site of Archaeological Interest;

- (b) is hard-paved, fenced off, erected with structures, and used for the applied use without valid planning permission; and
 - (c) is accessible from Deep Bay Road to its west via a local track.
- 8.2 The surrounding areas are predominated by open storage yards and warehouses. Other uses such as residential dwellings, a pig farm, an animal boarding establishment, a garden, a vehicle repair workshop, a temple and cultivated agricultural land, vacant land as well as shrubland are also found in the vicinity of the Site. Some of the uses are covered by valid planning permissions, whilst some are suspected unauthorized developments subject to planning enforcement action.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

All 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.

11. Public Comment Received During Statutory Publication Period

On 6.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual (**Appendix VI**) was received objecting to the application that open storage of hardware accessories would pollute the soil; and that the applied use has been in operation without valid planning permission.

12. Planning Considerations and Assessments

- 12.1 The application is for temporary open storage of hardware accessories for a period of three years at the Site zoned “REC” on the OZP (**Plan A-1**). Although the applied use is not in line with the planning intention of the “REC” zone, there is no known development proposal to implement the zoned use at the Site. Approval of the application on a temporary basis for a period of three years would not jeopardise the long-term planning intention of the “REC” zone.
- 12.2 The Site is located in an area predominated by open storage yards and warehouses, some of which are covered by valid planning permissions. The applied use is considered not incompatible with the surrounding land uses.
- 12.3 According to TPB PG-No. 13G, the Site falls within Category 2 areas. The application is in line with TPB PG-No. 13G in that there are no adverse comments

from concerned government departments including the Director of Environmental Protection, Commissioner for Transport (C for T), Chief Engineer/Mainland North of Drainage Services Department (CE/MN of DSD), Director of Fire Services (D of FS) and Executive Secretary (Antiquities & Monuments) of the Antiquities and Monuments Office. To minimise any possible environmental nuisance, relevant approval conditions have been recommended in paragraph 13.2 below. The applicant will also be advised to adopt the latest 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'. The technical requirements of CE/MN of DSD and D of FS could also be addressed by imposing approval conditions recommended in paragraph 13.2 below.

- 12.4 The Committee has approved three similar applications for temporary open storage uses between 2019 and 2023 which were subject to previous permissions since 1996 to 2000. Although the Committee had rejected four similar applications (No. A/YL-LFS/326, 329, 351 and 400) between 2018 and 2021, these applications were rejected when the Site fell within Category 3 areas under TPB PG-No. 13E/F, with which the applications did not comply. For the current application, the Site and its adjoining area have been reclassified from Category 3 to Category 2 areas under the TPB PG-No.13G promulgated on 14.4.2023. In fact, a similar application (No. A/YL-LFS/479) was approved by the Committee on 11.8.2023 after the reclassification. In view of the above, approval of the current application is not in conflict with the previous decisions of the Committee.
- 12.5 Regarding the public comment objecting to the application as stated in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.4 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 comment mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of hardware accessories could be tolerated for a period of three years.
- 13.2 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 three years until **24.11.2026**. 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 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 workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;

- (d) 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;
- (e) 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 **24.5.2024**;
- (f) in relation to (e) 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 **24.8.2024**;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 **5.1.2024**;
- (i) 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 **24.5.2024**;
- (j) in relation to (i) 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 **24.8.2024**;
- (k) if any of the above planning condition (a), (b), (c), (d) or (g) 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; and
- (l) if any of the above planning condition (e), (f), (h), (i) or (j) 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**.

- 13.3 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 "REC" 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 the planning intention, even on a temporary basis.

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 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with attachments received on 27.9.2023
Appendix Ia	SI received on 29.9.2023
Appendix Ib	FI received on 26.10.2023
Appendix Ic	FI received on 13.11.2023
Appendix II	Extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13G)
Appendix III	Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comment Received During Statutory Publication Period
Appendix VII	'Good Practice for Open Storage Sites' by the Fire Services Department
Drawing A-1	Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**