

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/524

- Applicants** : Art Gain Limited and Max Mark Corporation Limited represented by FiBi International Project Consultancy Co. Limited
- Site** : Lots 2282 and 2284 (Part) in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 1,586m²
- 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** : “Residential (Group E)” (“R(E)”) (about 99.9%)
[Restricted to a maximum plot ratio of 0.4 and a maximum building height of 3 storeys (9m) including car park]

“Green Belt” (“GB”) (about 0.1%)¹
- Application** : Proposed Temporary Open Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission for proposed temporary open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1**) zoned “R(E)” 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 hard paved and vacant (**Plans A-2, A-4a and 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 east of the Site (**Drawing A-1**). As indicated in the submission, an area of about 1,241m² (or 78%) is designated for open storage. Construction materials such as universal beams, steel bars/slabs/frames, scaffold bamboos and pipes will be stored at the Site. As shown on the layout plan at **Drawing A-1**, no structure is proposed at the Site. One parking space for medium/heavy goods vehicle would be provided. Drainage facilities (surface U-channels and catchpits) would also be provided (**Drawing A-3**).

¹ Considered as minor boundary adjustment in zoning boundaries which is permitted under the covering Notes of the OZP.

1.3 According to the applicants, the operation hours will be between 7 a.m. and 9 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays.

1.4 In support of the application, the applicants have submitted the following documents:

- (a) Application Form with attachments received on 28.5.2024 (Appendix I)
- (b) Supplementary Information (SI) received on 3.6.2024 (Appendix Ia)
- (c) Further Information (FI) received on 5.6.2024 (Appendix Ib)
[accepted and exempted from publication requirements]

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in the Application Form at **Appendix I**. They can be summarised as follows:

- (a) the proposed use is temporary in nature, and would not jeopardise the long-term planning intention of the “R(E)” zone;
- (b) the applicants will comply with the approval conditions imposed by the Board;
- (c) no operation will be undertaken at sensitive hours. The environmental and noise impacts of the proposed use will be minimal; and
- (d) the proposed use is small in scale, and away from residential settlements. It will not cause adverse traffic, environmental, drainage, landscape and visual impacts to the area.

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

The applicants are the sole “current land owner” of their respective lots on the Site. 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 Site is not subject to any active planning enforcement action.

6. Previous Application

There is no previous application covering the Site.

7. Similar Applications

- 7.1 Within/straddling the same “R(E)” zones, there are four similar applications for various open storage uses in the past five years. Two of them were approved while two were rejected by the Rural and New Town Planning Committee (the Committee) of the Board. 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/396 and 451 (straddling the “REC” zone) were approved with conditions by the Committee in 2021 and 2023 respectively mainly on considerations that temporary approval would not jeopardise the long-term planning intention; the applied use was not incompatible with the surrounding land uses; it was generally in line with the then TPB PG-No. 13F in that there were generally no adverse departmental comments; and the technical requirements could be addressed by approval conditions.

Rejected applications

- 7.3 Application No. A/YL-LFS/416 straddling the “R(E)” and “GB” zones was rejected by the Committee in 2022 mainly on grounds of being not in line with the planning intentions; being not in line with TPB PG-No. 10 for “Application for Development within the Green Belt Zone” and the then TPB PG-No. 13F in that the applicant failed to demonstrate the applied use would not have significant adverse traffic, environmental, landscape and slope safety impacts on the surrounding areas; and not compatible with the surrounding environment.
- 7.4 Application No. A/YL-LFS/508 was rejected by the Committee on 15.3.2024 mainly on grounds of being not in line with the planning intention, as well as TPB PG-No. 13G in that the applicant failed to demonstrate the applied use would not have significant adverse traffic and slope safety impacts.

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

- 8.1 The Site is:

- (a) hard-paved and vacant; and
- (b) accessible from the Deep Bay Road to its west via a local track.

- 8.2 To the north and west are a warehouse and a logistics centre covered by valid planning permission. To the south is a shrubland falling within the Permitted Burial Ground No. YL/59, while the area to the east is predominantly vacant land.

9. Planning Intention

The “R(E)” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraphs 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 raised concerns on the application:

Traffic

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

- (a) She notes that the proposed use would involve access of medium/heavy 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 applicants are requested to justify that the nearby public road network has adequate capacity to accommodate the traffic induced by the proposed use. In particular, the traffic impact on Deep Bay Road should be well assessed as a result of the proposed use, since it is highly likely that vehicles in opposite directions need to negotiate with each other where passing bay is not available.

Geotechnical

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

- (a) Two registered man-made slopes (Feature No. 2SW-C/C112 and 2SW-C/C114) (**Plan A-2**), which may affect or be affected by the proposed use, are located within or in the vicinity of the Site. The applicants are required to submit a Geotechnical Planning Review Report (GPRR) in support of the planning application at this stage.
- (b) The applicants should note his advisory comments at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 4.6.2024, 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 on grounds that the Site, being close to permitted

burial ground and the “GB” zone, is not suitable for brownfield uses.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary open storage of construction materials for a period of three years at the Site zoned “R(E)” on the OZP (**Plan A-1**). The proposed use is not in line with the planning intention of the “R(E)” zone, which is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. While there is no programme for permanent development in the “R(E)” zone, there are adverse comments from concerned government departments on traffic and geotechnical aspects (to be discussed in paragraph 12.3 below). Hence, there is no strong justification to warrant a departure from the planning intention, even on a temporary basis.
- 12.2 The surrounding area comprises mainly a logistics centre and warehouse to the north and west, and shrubland to the south. The proposed use is considered generally 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 not in line with TPB PG-No. 13G in that there are adverse departmental comments on traffic and geotechnical aspects. In particular, C for T raises concerns that the proposed use would generate traffic of medium/heavy goods vehicles to/from Deep Bay Road which is a single track road. However, the applicants have not provided information or assessment on whether the nearby public road network, particularly Deep Bay Road, has adequate capacity to accommodate the traffic induced by the proposed use. Moreover, H(GEO) of CEDD advises that two registered man-made slopes are located within or in the vicinity of the Site, but the applicants have not submitted a GPRR in support of the application to demonstrate that the proposed use would not affect/be affected by the slopes. Hence, there is insufficient information to assess whether the proposed use would not have adverse traffic and slope safety impacts on the surrounding area.
- 12.4 Other concerned departments including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no comment on the proposed use from environment, drainage and fire safety perspectives.
- 12.5 While the Committee approved two similar applications in 2021 and 2023 which were generally not subject to adverse departmental comments, two similar applications were rejected in 2022 and 2024 mainly on grounds of being not in line with the planning intentions as well as adverse departmental comments on technical aspects. For the current application, there are adverse departmental comments on traffic and geotechnical aspects. As such, rejecting the current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the public comment objecting to the application as stated in paragraph 11 above, the planning considerations and assessments in paragraphs 12.1 to 12.5 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 does not support the application for the following reasons:

- (a) the proposed use is not in line with the planning intention of the “R(E)” zone, which is primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the proposed use is not in line with the Town Planning Board Guidelines on ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13G) in that the applicants fail to demonstrate that the proposed use would not be susceptible to adverse slope safety impact, and would not have adverse traffic and slope safety 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 three years until **19.7.2027**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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 **19.1.2025**;
- (b) in relation to (a) 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 **19.4.2025**;
- (c) in relation to (b) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 **30.8.2024**;
- (e) the submission of a proposal for water supplies for firefighting and fire service installations 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 **19.1.2025**;
- (f) in relation to condition (e) 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 **19.4.2025**;

- (g) the submission of a geotechnical assessment report before the commencement of any construction works or operation to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board;
- (h) in relation to (g) above, the implementation of necessary stabilization/ protection measures identified therein before the commencement of any construction works or operation to the satisfaction of the Head of the Geotechnical Engineering Office of Civil Engineering and Development Department or of the Town Planning Board;
- (i) if the above planning condition (c) 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;
- (j) if any of the above planning condition (a), (b), (d), (e) or (f) 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; and
- (k) if any of the planning condition (g) or (h) is not complied with before the commencement of any construction works or operation, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice.

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 applicants.
- 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 with attachments received on 28.5.2024
Appendix Ia	SI received on 3.6.2024
Appendix Ib	FI received on 5.6.2024
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
Drawing A-3	Drainage 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
JULY 2024**