

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-NTM/447

<u>Applicant</u>	: Fu Hop Yick Investment Limited
<u>Site</u>	: Lots 2273, 2277 and 2278 in D.D. 102, Ngau Tam Mei, Yuen Long
<u>Site Area</u>	: About 1,770 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ngau Tam Mei Outline Zoning Plan No. S/YL-NTM/12
<u>Zoning</u>	: “Green Belt” (“GB”)
<u>Application</u>	: Proposed Temporary Open Storage for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage for a period of 3 years and associated filling of land at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use 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. Filling of land within “GB” zone also requires planning permission from the Board. The Site is currently occupied by a vacant temporary structure and an open shed.
- 1.2 According to the layout plan (**Drawing A-1**) and further information (FI) submitted by the applicant, the ingress/egress (about 6m wide) is located at the eastern boundary of the Site, which is accessible to Kwu Tung Road via a local access (**Plan A-1**). There are two single-storey structures (about 4m in height) with a total floor area of about 603 m² at the Site, which are for storage of homeware uses. There will be one private car parking space and one light goods vehicle parking space. The whole site has been filled with concrete for 0.1m in depth without valid planning permission. The operation hours of the proposed use are from 9:00 a.m. to 7:00 p.m. from Mondays to Sundays, including the public holiday.

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

- (a) Application Form received on 19.9.2022 with (**Appendix I**) attachments
- (b) FI received on 3.11.2022 responding departmental (**Appendix Ia**) comments[#]

[#] exempted from publication requirement

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**. The applicant indicates that the proposed use is for the storage of homewares, which can make better utilization of vacant land.

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

The applicant is one of the “current land owner” of the Site and 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 publishing notices in a prominent position on the application site and sent notices to the San Tin Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines for ‘Development within Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant assessment criteria of the Guidelines is attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines 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 27.3.2022 is relevant to this application. The Site falls within Category 4 areas under the TPB PG-No. 13F. Relevant extract of the Guidelines is attached at **Appendix II**.

5. Background

The Site is not subject to any active enforcement action.

6. Previous Application

There is no previous application at the Site.

7. Similar Applications

7.1 There are three similar applications (No. A/YL-NTM/394, A/YL-NTM/395 and A/YL-NTM/433) involving two sites for temporary open storage of construction materials and machinery parts for a period of 3 years and one site for the filling of land within the “GB” zone on the same OZP in the past five years. All of them were rejected by the Committee from 2020 to 2022 mainly on the considerations that the applied uses being not in line with the planning intention of “GB” zone, not in line with the TPB PG- No. 10 and 13E, and the approval of applications would set an undesirable precedent for similar applications within the “GB” zone.

8. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)

8.1 The Site is:

- (a) hard-paved, occupied by a vacant temporary structure and an open shed; and
- (b) accessible to Kwu Tung Road via a local access.

8.2 The surrounding land uses are rural in character intermixed with open storage, vacant land, residential structures, ponds, grassland and woodland:

- (a) to the immediate north are storage and residential structures, and to the further north are warehouse, residential structures, pond and vacant land;
- (b) to the immediate northeast and east are a residential structure and vacant land respectively, to the further northeast and east are grassland and woodland which is zoned “Conservation Area”;
- (c) to the southeast are residential structures and vacant land;
- (d) to the immediate south are residential structures and open storage of vehicles, to the further south are vacant land and a temple;
- (e) to the southwest are vacant land, grassland and residential structures and to the immediate west are fish ponds; and
- (f) except for some residential structures to the immediate south and to the southwest, other residential structures, open storage and warehouse in the vicinity of the Site are mostly suspected unauthorised developments.

9. Planning Intention

The planning intention of the “GB” zone is 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

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.1 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 department has concerns on the application.

Landscape

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

- (a) The Site is partly hard-paved with temporary structures and partly covered with self-seeded vegetation. Existing trees of common species in fair condition are observed within the site. The whole site has been filled with concrete for 0.1m in depth. However, no tree information and proposed tree treatment are provided in the application and therefore potential impact on the existing trees arising from the proposed use cannot be reasonably ascertained.
- (b) There is a concern that approval of the application would alter the landscape character of the “Green Belt” zone and further degrade the landscape quality of surrounding environment. Hence, she has reservation on the application from landscape planning perspective.

11. Public Comments Received During Statutory Publication Period

On 27.9.2022, the application was published for public inspection. During the three weeks of the statutory public inspection period, which ended on 18.10.2022, a total of 3 public comments were received from 2 individuals and the Kadoorie Farm and Botanic Garden objecting to or raising concerns on the application on grounds that the proposed temporary use will create traffic issue, environmental pollution and increase fire risk thereby affecting the safety and living quality of the local residents. It is also not in line with the planning intention of “GB” zone and will set undesirable precedent for similar cases in this “GB” zone (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for temporary open storage for a period of 3 years and filling of land at the Site which falls within an area zoned “GB”. The planning intention of “GB” zone is 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 applicant has not provided strong planning justifications that merit a departure from the aforementioned planning intention, even on a temporary basis. It is considered that the proposed use and filling of land is not in line with the planning intention of the “GB” zone.

- 12.2 The Site is in close vicinity of Ki Lun Shan falling within “CA” zone with woodland. Although there are a few open storages identified around the Site, they are operated without valid planning permission. The proposed temporary use and filling of land is considered incompatible with the surrounding major land uses which are rural in character and intermixed with ponds, woodland, grassland and residential dwellings, as well as the adjacent “CA” zone (**Plan A-2**).
- 12.3 According to the TPB PG-No. 10, development in the “GB” zone should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape, adversely affect drainage or aggravate flooding and slope stability in the area. CTP/UD&L of PlanD has reservation on the application that existing trees of common species in fair condition are observed within the Site but no tree information and proposed tree treatment are provided in the application, and potential impact on the existing trees arising from the proposed use cannot be reasonably ascertained. The approval of the application would alter the landscape character of the “Green Belt” zone and further degrade the landscape quality of surrounding environment. It is considered that the proposed use and filling of land at the Site is not in line with the TPB PG-No. 10.
- 12.4 As mentioned in paragraph 4.2, the Site falls within Category 4 areas under the TPB PG-No. 13F in which applications for open storage and port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. The application is not in line with TPB PG-No. 13F in that no previous approval for the proposed use has been granted for the Site and there are adverse departmental comments on landscape aspect.
- 12.5 There had been three similar applications for similar use in the “GB” zone for the past five years and all of them were rejected by the Committee on similar considerations that the proposed storage uses and land filling are not in line with the planning intention of “GB”, not in line with the TPB PG- No. 10 and 13E, and approval of application would set an undesirable precedent resulting in general degradation of the environment of the area. Rejection of current application is in line with the previous decisions of the Committee.
- 12.6 Regarding the three public comments received raising objection/concerns on the application as detailed in paragraph 11 above, the planning considerations and assessments and departmental comments above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and have taking into account the public comments in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the proposed use and filling of land is not in line with the planning intention of the “GB” zone which is 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 and 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 and filling of land is not in line with the TPB PG-No. 10 in that it is incompatible with the surrounding area and will affect the landscape character; and
- (c) the proposed use and filling of land is not in line with the TPB PG-No. 13F in that there is no previous planning approval for the proposed use at the Site and there are adverse departmental comments on landscape aspect.

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 11.11.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) 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 11.5.2023;
- (b) 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 11.8.2023;
- (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 submission of a fire service installation 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 11.5.2023;
- (e) 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 11.8.2023;
- (f) if any of 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; and
- (g) if any of the above planning condition (a), (b), (d) or (e) 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.

- (h) 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 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 the permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application Form received on 19.9.2022 with attachments
Appendix Ia	FI received on 3.11.2022
Appendix II	Extract of TPB PG-No. 10 and No. 13F
Appendix III	Similar Applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2022**