

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/1013

- Applicant** : Super Wise (HK) Limited represented by Lanbase Surveyors Limited
- Site** : Lots 872, 873, 875, 876, 877, 878, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891 S.A, 892 S.A, 893 S.A, 3049 and 3050 in D.D. 111 and Adjoining Government Land (GL), Pat Heung, Yuen Long
- Site Area** : About 21,586m² (including about 1,530m² (7.1%) of GL)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Wholesale Trade (Food) for a Period of Five Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade (food) for a period of five years at the application site (the Site), which falls within an area zoned “OS” on the OZP (**Plan A-1a**). According to the Notes of the OZP for the “OS” zone, ‘Wholesale Trade’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant and partly paved (**Plan A-4**).
- 1.2 The Site is accessible from Fan Kam Road via a local track (**Plan A-1b**). According to the applicant, the proposed use involves two single-storey structures with a height of not exceeding 18m and a total gross floor area of about 15,916m² for storage of packaged food products. According to the applicant, the high headroom of the structures is to accommodate the robotic machines for moving the goods on the pallet ranks. Eight loading/unloading spaces for container vehicles will be provided within the Site while there is no parking space for private car. The proposed operation hours will be between 10:00 a.m. and 5:00 p.m. from Mondays to Sundays including public holidays. It is estimated that there will be ten staff members working at the Site. There will be no food manufacturing, retail or workshop activities to be conducted; and no car washing or maintenance activities and no parking of vehicles at night will be allowed within the Site to minimise environmental impact on the surrounding areas. No public announcement system,

portable loudspeakers or any form of audio amplification system will be used at the Site as well. The layout plan submitted by the applicant is at **Drawing A-1**.

1.3 The Site, in part or in whole, is the subject of five previous planning applications (details in paragraph 5 below). The last application (No. A/YL-PH/804) submitted by a different applicant for the same use at the same site was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 12.4.2019 and the planning permission was revoked on 12.3.2023 due to non-compliance with approval conditions.

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

- (a) Application Form and Planning Statement received on 14.5.2024 (**Appendices I and Ia**)
- (b) Further Information (FI) received on 23.5.2024[#] (**Appendix Ib**)
- (c) FI received on 9.7.2024[#] (**Appendix Ic**)
- (d) FI received on 23.10.2024^{*} (**Appendix Id**)

[#] *accepted but not exempted from publication and recounting requirements*

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1.5 On 8.9.2024, the Committee agreed to defer making a decision on the application for two months as requested by the applicant.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, Planning Statement and FIs at **Appendices I to Id**, and can be summarised as follows:

- (a) The proposed use is on a temporary basis and will not jeopardise the long-term planning intention of the “OS” zone. It is considered not incompatible with the surrounding land uses which are mainly predominated by brownfield operations.
- (b) The applicant is an operator of wholesale trade. The proposed use will provide packaged food products including snacks and dried seafood to retailers.
- (c) Sufficient space will be provided within the Site for maneuvering of the container vehicles and no vehicle will queue back to or reserve onto/from public road anytime. Since the Site is accessible by public transportation on Fan Kam Road, no parking space will be provided for the staff members.
- (d) A fire service installations (FSIs) proposal and a drainage impact assessment have been submitted in support of the current application. The proposed use will not cause any adverse impact on traffic, drainage, environmental and fire safety aspects. The applicant will comply with the approval conditions to be imposed and follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise the potential environmental impacts.

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

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

4. Background

The Site is not subject to any active planning enforcement action.

5. Previous Applications

5.1 The Site, in part or in whole, is the subject of five previous planning applications (No. A/YL-PH/133, 142, 249, 276 and 804). Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1b**.

5.2 Four applications (No. A/YL-PH/133, 142, 249 and 876) for various open storage uses/pond filling for open storage use were approved with conditions by the Committee between 1997 and 1999. The considerations of these four planning applications are not relevant to the current application which involves a different use.

5.3 The last application (No. A/YL-PH/804) for the same use at the same site as the current application was approved with conditions by the Committee on 12.4.2019 on the considerations that the temporary approval would not frustrate the long-term planning intention of the “OS” zone; the proposed use was not incompatible with the surrounding uses; and the concerned government departments consulted in general had no adverse comment or their technical concerns could be addressed by relevant approval conditions. The planning permission was subsequently revoked on 12.3.2023 due to non-compliance with approval conditions. Compared with the last previous application, the current application was submitted by a different applicant and involves a slight increase in site area and building height of the structures (from 15m to 18m) while the total gross floor area, number of structures and loading/unloading spaces for container vehicles remain unchanged.

6. Similar Application

There is one similar application (No. A/YL-PH/846) for proposed temporary wholesale trade within the “OS” zone in the vicinity of the Site in the past five years. It was approved with conditions by the Committee on 1.9.2020 mainly on the considerations as stated in paragraph 5.3 above. Details of this similar application are summarised in **Appendix III** and the location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) currently vacant and partly paved; and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding areas are rural in character comprising mainly open storage/storage yards intermixed with village houses/residential structures of Sheung Che and Ha Che, vehicle dismantle/repair workshops, warehouses, vehicle parks, grassland, vacant land and woodland/graves (within a permitted burial ground).

8. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It is also intended to provide for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

9. Comments from Relevant Government Departments

9.1. Apart from the government department as set out in paragraph 9.2 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.

9.2. The following government department does not support the application:

Environment

9.2.1. Comments from the Director of Environmental Protection (DEP):

- (a) does not support the application in accordance with the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” as there are sensitive receivers in the vicinity (i.e. a residential structure is about 30m to the south of the Site) and the application involves eight loading/unloading spaces for container vehicles which is considered as ‘heavy vehicle’. Thus, environmental nuisance is expected;
- (b) no substantiated environmental complaint concerning the Site was received in the past three years; and
- (c) advisory comments are at **Appendix V**.

10. Public Comment Received During Statutory Publication Periods

On 21.5.2024, 7.6.2024 and 19.7.2024, the application was published for public inspection. During the statutory public inspection periods, one public comment from an individual was received objecting to the application mainly on the grounds that the application is an extension of the surrounding massive brownfield operations, which would cause environmental nuisance to the nearby residents (**Appendix VI**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade (food) for a period of five years at the Site zoned “OS” (**Plan A-1a**). The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses; and to provide for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. Whilst the proposed use is not entirely in line with the planning intention of “OS” zone, it is not incompatible with the intended uses in the zone. Besides, approval of the application on a temporary basis for a period of five years would not frustrate the long-term planning intention of the “OS” zone.
- 11.2 The proposed use is considered not incompatible with the surrounding land uses, which are rural in character comprising mainly open storage/storage yards intermixed with village houses/residential structures of Sheung Che and Ha Che, vehicle dismantle/repair workshops, warehouses, vehicle parks, grassland, vacant land and woodland/graves. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) considers that significant landscape impact arising from the proposed use is not anticipated.
- 11.3 DEP does not support the application as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected. Nonetheless, no substantiated environmental complaint concerning the Site was received in the past three years. Should the application be approved, the applicant will be advised to follow the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by the Environmental Protection Department to minimise the potential environmental nuisance caused by the proposed use on the surrounding areas. Other relevant government departments consulted, including the Director of Fire Services who also considers the submitted FSIs proposal acceptable, Commissioner for Transport and Chief Engineer/Mainland North of Drainage Services Department, have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, relevant approval conditions are recommended in paragraph 12.2 below.
- 11.4 There is one approved similar application for temporary wholesale trade use in the vicinity of the Site in the past five years as detailed in paragraph 6 above.

Approving the current application is in line with the Committee's previous decision.

- 11.5 Regarding the public comment objecting to the application, the departmental comments and planning assessments above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, PlanD has no objection to the application.
- 12.2 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 five years until 20.12.2029. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the submission of a revised drainage impact assessment 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 20.6.2025;
- (b) in relation to (a) above, the implementation of the revised drainage proposal identified in the drainage impact assessment 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 20.9.2025;
- (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 implementation of the accepted 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 20.9.2025;
- (e) 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; and
- (f) if any of the above planning condition (a), (b) or (d) 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 at **Appendix V**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use is not in line with the planning intention of the "OS" zone, which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses; and to provide for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 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 the permission should be valid on a temporary basis.
- 13.3 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.

14. Attachments

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| Appendices I and Ia | Application Form and Planning Statement received on 14.5.2024 |
| Appendix Ib | FI received on 23.5.2024 |
| Appendix Ic | FI received on 9.7.2024 |
| Appendix Id | FI received on 23.10.2024 |
| Appendix II | Previous Applications |
| Appendix III | Similar Application |
| Appendix IV | Government Departments' General Comments |
| Appendix V | Recommended Advisory Clauses |
| Appendix VI | Public Comment |
| Drawing A-1 | Layout Plan |
| Plan A-1a | Location Plan |
| Plan A-1b | Previous Application Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4a to A-4b | Site Photos |