

RNTPC Paper No. A/YL-PH/882
For Consideration by
the Rural and New Town
Planning Committee
on 9.7.2021

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/882

<u>Applicant</u>	: Mr. Yu Kim Ming represented by Mr. Wong Sun Wo William
<u>Site</u>	: Lots 91 (Part) and 98 in D.D. 108, Pat Heung, Yuen Long
<u>Site Area</u>	: 3,580m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Pat Heung Outline Zoning Plan No. S/YL-PH/11
<u>Zoning</u>	: “Residential (Group D)” (“R(D)”) [Maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
<u>Application</u>	: Proposed Temporary Recyclable Materials Recycling Centre (Recycling Waste Paper, Waste Metalware and Plastic) with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for recyclable materials recycling centre (recycling waste paper, waste metalware and plastic) with ancillary office for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Recyclable Collection Centre’ is a Column 2 use in “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly used for open storage of construction materials without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site involves 7 previous planning applications, four of which for temporary open storage or temporary recyclable materials recycling centre uses were rejected by the Rural and New Town Planning Committee (the Committee) between 2005 and 2020. The remaining three applications covering different parts of the Site for temporary public car park or hobby farm uses were approved with conditions by the Committee between 2016 and 2018. However, all of them were revoked due to non-compliance with approval conditions.

- 1.3 According to the applicant, the proposed development involves 3 one storey structures (3.5m to 8m in height) with total floor area of about 1,296m² for recycling centre, site office and portable toilet uses. All recycling activities and metal compressor will be kept indoor in the enclosed structures and the recycling materials will not be stored in the open area. 2 private car parking spaces and 2 loading/unloading space for light goods vehicles will be provided within the Site. The operation hours are between 8:00am and 6:00pm from Mondays to Saturdays. There is no operation on Sundays and public holidays. The Site is accessible via a local track branching off Fan Kam Road. The layout submitted by the applicant is at **Drawing A-1**.
- 1.4 A comparison of the major development parameters of the current application and the last rejected application is given in the following table:

Major Development Parameters	Last Rejected Application No. A/YL-PH/822 (a)	Current Application (b)	Differences (b) – (a)
Site Area (m ²)(about)	3,580	3,580	No Change
Applied Use	Proposed Temporary Recyclable Collection Centre (Waste Metalware Recycling Centre with Ancillary Office) for a Period of 3 Years	Proposed Temporary Recyclable Materials Recycling Centre (Recycling Waste Paper, Waste Metalware and Plastic) with Ancillary Office for a Period of 3 Years	Similar Use
Total Floor Area (m ²)	205	1,296	+1,091(+532.2%)
No. of Structure(s)	2	3	+1(+50%)
Maximum Building Height (m)	4.5 / 2 storeys	8/ 1 storey	+3.5(+77.8%)
No. of Parking and Loading/Unloading Spaces	3 for private car, 2 for medium goods vehicle	2 for private car and 2 for light goods vehicle	Deletion of 1 parking space for private car and change of 2 loading/unloading spaces from medium goods

			vehicle to light goods vehicle.
Operation Nature	The recycling activities and metal compressor are located in open area	The recycling activities and metal compressor are enclosed with soundproofing material	All recycling activities and metal compressor will be kept indoor at all times in enclosed structures with soundproofing material

1.5 In support of the application, the applicant has submitted:

- (a) Application Form with plans received on 11.5.2021 **(Appendix I)**
- (b) Further information (FI) received on 2.7.2021 in **(Appendix Ia)** response to departmental 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 section 7 of the application form and FI in **Appendices I** and **Ia**. It can be summarised as follows:

- (a) Planning approval was granted at the Site for temporary car park, yet only a limited number of vehicles used the Site for parking. As such, the applicant proposes to use the Site for ‘Recyclable Collection Centre’ which is a Column 2 under the “R(D)” zone. The proposed use will not have adverse traffic impact on Fan Kam Road.
- (b) All recycling activities and metal compressor will be kept indoor at all times in enclosed structures with soundproofing material. The proposed use will not have material breaking process, plastic burning or melting and storage of recyclable material in outdoor open spaces.

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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consents of the 2 current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is subject to two on-going planning enforcement actions (Nos. E/YL-PH/860 & E/YL-PH/861) (**Plan A-2**) against an unauthorized development (UD) involving storage use. Enforcement Notices were issued on 3.6.2021 requiring discontinuation of the UD.

5. **Previous Applications**

- 5.1 The Site involves 7 previous planning applications for various temporary open storage, public car park, hobby farm and recyclable collection centre uses. All of them were submitted by different applicants than the current application except the last application (No. A/YL-PH/822). Details of the applications are summarised in **Appendix II** and their locations are shown on **Plan A-1b**.
- 5.2 Applications for proposed temporary open storage of vehicles (No. A/YL-PH/479) or temporary open storage of construction machinery (No. A/YL-PH/537 and 681) were rejected by the Committee or the Board on review between 2005 and 2014 mainly on the grounds that the developments were not in line with the planning intention of “R(D)” zone; the applications did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that no previous approval had been granted at the sites, the proposed developments were not compatible with the nearby residential developments and “Conservation Area” (“CA”) zone, and there was insufficient information to demonstrate that the proposed developments would not generate adverse impacts on the surrounding areas; and approval of the applications would set undesirable precedents.
- 5.3 Applications for temporary public car park (No. A/YL-PH/725 and 745) and temporary hobby farm (No. A/YL-PH/780) were approved with conditions by the Committee between 2016 and 2018 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; the developments would not cause significant environmental impacts; and there were no adverse comments from government departments. However, all applications were revoked due to non-compliance with planning conditions.
- 5.4 The last application (No. A/YL-PH/822), submitted by the same applicant as the current application, for proposed temporary recyclable collection centre (waste metalware recycling centre with ancillary office) for a period of 3 years was rejected by the Committee in March 2020 on the grounds that the proposed development was not in line with the planning intention of “R(D)” zone ; no strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; the proposed development was not compatible with the surrounding areas where residential structures, a natural stream and “Conservation Area” zones were found; and the applicant failed to demonstrate that the proposed development would not generate environmental nuisance to the surrounding areas.

6. **Similar Application**

- 6.1 There is one similar application (No. A/YL-PH/806) for proposed temporary recycling materials collection centre (garment and cloth collection centre with ancillary office) for a period of 3 years at the same “R(D)” zone. Details of the application are summarised in **Appendix III** while its location is shown on **Plan A-1a**.
- 6.2 The application is located to the further north of the Site adjoining Fan Kam Road. It was approved with conditions by the Committee in 2019 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed use mainly involving collection and package of recycled garment and cloth without involving machinery and open storage and would unlikely generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area; and there was no adverse comment from relevant departments.

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

- 7.1 The Site is:
 - (a) currently paved, partly vacant and partly used for open storage of construction materials without valid planning permission; and
 - (b) accessible via a local track branching off Fan Kam Road.
- 7.2 The surrounding areas are rural in character intermixed with residential dwellings/ structures, a stream, open storage/ storage yards, vehicle repair workshops, warehouse, vacant land and densely vegetated land. The open storage/ storage yards, vehicles repair workshops and warehouse are suspected unauthorised development subject to enforcement action by the Planning Authority:
 - (a) to its east and northeast are vehicle repair workshops, warehouse and open storage yards;
 - (b) to its northwest are residential dwellings/ structures (the nearest being less than 10m) and open storage yards. To the further northwest of the Site across Fan Kam Road is densely vegetated land zoned “CA”;
 - (c) to its west are open storage/ storage yards, residential dwellings/ structures and vacant land; and
 - (d) to the immediate south and southeast is a natural stream and across the stream is a large piece of densely vegetated land zoned “CA”.

8. Planning Intention

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Should the planning approval be given to the planning application, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.

- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department (TD). The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) His department is not/ shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water running from the Site to the nearby public roads and drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) Provided that the facilities will be properly designed and maintained to minimize any potential environmental nuisance, he has no objection to the application subject to the following approval conditions:
 - (i) No material breaking process, plastic burning or melting, will be allowed on the Site as proposed by the applicant;
 - (ii) All the material packaging activities will be conducted indoor as proposed by the applicant; and
 - (iii) No storage of recyclable material in outdoor open spaces within the Site is allowed as proposed by the applicant.
- (c) Moreover, the applicant is advised: (i) to follow the requirements stipulated in “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site”; (ii) to provide adequate supporting infrastructure/ facilities for proper collection, treatment and disposal of waste/ wastewater generated from the proposed use. If septic tank and soakaway system will be used in case of unavailability of public sewer, its design and construction shall follow the requirements of

Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the Environmental Protection Department" including percolation test; and (iii) that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances.

Natural Conservation

- 9.1.5 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) The Site is vacant and paved, he has no comment on the application from nature conservation perspective.
 - (b) There is a natural stream along the south-eastern boundary of the Site. Should the application be approved, the applicant shall be advised to adopt precautionary measures to avoid disturbance and pollution to the stream.

Drainage

- 9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):
- (a) He has no objection in-principle to the proposed development from the public drainage point of view.
 - (b) Should the application be approved, approval conditions requiring the submission of a revised drainage proposal, implementation and maintenance of a drainage proposal for the development should be included in the planning permission.
 - (c) His detailed comments on the submitted drainage proposal is at **Appendix V**.

Fire Safety

- 9.1.7 Comments of the Director of Fire Services (D of FS):
- (a) He has no objection in-principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
 - (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.

The location of where the proposed FSI to be installed should be clearly marked on the layout plans.

- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) His detailed comments on UBW, provision of access, temporary or licenced structures are at **Appendix V**.
- (d) Detailed checking under the BO will be carried out at building plan submission stage.

District Officer's Comments

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

He has not received any comments from locals upon close of consultation and he has no particular comment on the application.

9.2 The following Government department has no objection to/no comment on the application:

- (a) Chief Engineer/Construction, Water Supplies Department.
- (b) Director of Electrical and Mechanical Services;
- (c) Project Manager (West), Civil Engineering and Development Department; and
- (d) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 18.5.2021, the application was published for public inspection. During the three-weeks statutory publication period, three public comments from a Yuen Long District Council Member and individuals were received (**Appendix IV-a to IV-c**), objecting to the application mainly on the grounds that the proposed development would increase traffic flow and lead to traffic congestion; it would create adverse environmental impacts of fire safety crisis to the villagers and environmental pollution ; and the propose use would bring about toxic effect should not be allowed on land planned for housing or community use.

11. Planning Considerations and Assessments

- 11.1 The application is for recyclable materials recycling centre (recycling waste Paper, waste metalware and plastic) with ancillary office for a period of 3 years at the Site zoned “R(D)”. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the proposed use is not entirely in line with the planning intention of the “R(D)” zone, there is no known programme for long-term development of the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.
- 11.2 The Site falls within an area which is rural in character intermixed with open storage / storage yards, vehicle repair workshop, warehouse, residential dwellings / structures and vegetated land with a stream course along its southeastern boundary. Whilst the temporary use under application involving recycling of materials is considered not compatible with the surrounding areas, the applicant states that all recycling activities, including the metal compressor, will be undertaken within the enclosed structure which are constructed with soundproofing material. There will also be no open storage of recycled materials in the open-air portion of the Site, thus minimising any possible environmental impacts and pollution risk on the surrounding areas, the residents nearby as well as the neighbouring stream course. Besides, it is also noted that the applicant has positioned the structure as far as possible away from the stream course. Taking account of the above, DAFC has no comment on the application from the nature conservation perspective and advises that precautionary measures should be adopted to avoid disturbance and pollution to the stream, should the application be approved by the Committee.
- 11.3 Other relevant departments consulted including C for T, CHE/NTW of HyD, DEP, D of FS and CE/MN of DSD have no adverse comment on or objection to the application. To minimise possible traffic noise arising from the operation of the temporary recycling centre, the applicant proposes that only light goods vehicle will be used for loading / unloading purpose. To address any possible

environmental nuisance, relevant approval conditions restricting the operation hours, no material breaking process, plastic burning or melting, all the material packaging activities will be conducted indoor, no storage of recyclable material in outdoor open spaces and types of vehicles are recommended in paragraphs 12.2 (a) to (f) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. In addition, the applicant will 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 C for T, CHE/NTW of HyD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (g) to (l) below.

- 11.4 The Site is the subject of 7 previous applications for various temporary open storage, car park, hobby farm and recyclable collection centre uses. The current application is submitted by the same applicant as the last application (No. A/YL-PH/822) for a similar use which was rejected by the Committee as mentioned in paragraph 5 above. Nevertheless, the planning circumstance is different from the last rejected application as mentioned in paragraphs 11.1 and 11.2 above in that endeavor has been made by the applicant under the current application to minimize the possible environmental nuisance, pollution risk to the surrounding areas, including the adjoining stream course, and nearby residents. Relevant government departments, in this regard, have no comment on or objection to the application. There is one similar application for proposed temporary recyclable materials collection centre within the same “R(D)” zone which is approved by the Committee on 2019 as mentioned in paragraph 6 above.
- 11.5 Three public comments objecting to the application were received during the statutory publication period mainly on the grounds as mentioned in paragraph 10 above. In this regard, the departmental comments as well as the planning assessments and considerations as stated above are relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10 above, the Planning Department 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 3 years until 9.7.2024. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 8:00a.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 material breaking process, plastic burning or melting, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (d) all the material packaging activities shall be conducted indoor with the Site, as proposed by the applicant, during the planning approval period;
- (e) no storage of recyclable material in outdoor open spaces, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (f) no light goods vehicles exceeding 5.5 tonnes, including container tractors/ trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (h) 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 9.1.2022;
- (i) in relation to (h) 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 9.4.2022;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) 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 9.1.2022;
- (l) in relation to (k) 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 9.4.2022;
- (m) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g) or (j) 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
- (n) if any of the above planning condition (h), (i), (k) or (l) 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**.

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

the proposed development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification in the submission for a departure from such 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

Appendix I	Application form with plans received on 11.5.2021
Appendix Ia	FI received on 2.7.2021
Appendix II	Previous s.16 applications covering the Site
Appendix III	Similar application within the same "R(D)" zone on the Pat Heung OZP
Appendix IV-a to IV-c	Public Comments
Appendix V	Advisory Clauses

Drawing A-1	Layout Plan
Plan A-1a	Location with similar application Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4a & 4b	Site Photos

**PLANNING DEPARTMENT
JULY 2021**