

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PS/669**

- Applicant** : Mr. FUNG Siu-tan
- Site** : Lots 206 (Part), 227 (Part), 231 (Part), 232 S.A (Part), 232 S.B (Part), 232 S.C, 232 RP (Part), 234 (Part) and 235 (Part) in D.D. 126, Ping Shan, Yuen Long, New Territories
- Site Area** : 3,673m<sup>2</sup> (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
- Zoning** : “Residential (Group A)6” (“R(A)6”) (about 96.4%)  
*[Restricted to a maximum plot ratio of 6.7 and a maximum building height of 160mPD]*  
  
“Recreation” (“REC”) (about 3.6%)
- Application** : Temporary Warehouse and Open Storage of Plastic and Hardware Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary warehouse and open storage of plastic and hardware materials for a period of three years at the application site (the Site). The Site falls within an area largely zoned “R(A)6” with a minor portion within an area zoned “REC”<sup>1</sup> on the approved Ping Shan OZP No. S/YL-PS/20 (**Plan A-1a**). According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently partly used for open storage of construction machineries and materials, and partly used for warehouse of hardware materials without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible via a local track from Tin Wah Road and Tin Tsz Road (**Plans A-2 and A-3**). As shown on the layout plan at **Drawing A-1**, one temporary structure with a total floor area of about 220m<sup>2</sup> and building height of 1 storey (5m)

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<sup>1</sup> Regarded as minor boundary adjustment according to the covering Notes of the OZP.

for warehouse use is located at the northwestern corner of the Site. The remaining uncovered part of the Site is for open storage use. One loading/unloading (L/UL) space for heavy goods vehicle is provided. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, and there is no operation on Sundays and public holidays. The layout plan, vehicular access plan and drainage proposal are shown at **Drawings A-1 to A-3** respectively.

- 1.3 The Site is involved in eleven previous applications for various open storage uses with/without warehouse from 1997 to 2021 (**Plan A-1b**) (details at paragraph 6 below). The last application (No. A/YL-PS/647) submitted by the same applicant covering largely the same site was approved by the Rural and New Town Planning Committee (the Committee) of the Board on 26.11.2021 and revoked on 26.2.2022. As compared with the last application, the current application involves a slightly larger site area and lengthened operation hours.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 19.9.2022 (**Appendix I**)
  - (b) Supplementary Information (SI) received on 22.9.2022 (**Appendix Ia**)
  - (c) Further Information (FI) received on 4.1.2023<sup>^</sup> (**Appendix Ib**)
  - (d) FI received on 10.2.2023<sup>#</sup> (**Appendix Ic**)
  - (e) FI received on 15.2.2023<sup>#</sup> (**Appendix Id**)
- <sup>^</sup>*accepted but not exempted from publication and recounting requirements*  
<sup>#</sup>*accepted and exempted from publication and recounting requirements*
- 1.5 On 11.11.2022, the Committee of the Board agreed to defer a decision on the application as requested by the applicant for two months.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FI at **Appendices I** and **Id** respectively. They can be summarised as follows:

- (a) The Site has been used for the applied use for many years. The applicant has also carried out regular maintenance and cleaning of the drains for the Site. No flooding problem has ever occurred.
- (b) For the two previous applications (No. A/YL-PS/619 and 647) which were submitted by the applicant, he failed to comply with the approval condition on the submission of drainage proposal owing to failure to solicit assistance from professionals and to submit extension of time (EOT) application. For the current application, the applicant has commissioned professionals to prepare and submit the drainage proposal, and would commission professionals to follow up on the compliance with approval conditions should the application be approved.

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

The applicant is not the “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 Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending registered post to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

### **4. Background**

- 4.1 The subject “R(A)6” zone was rezoned from “REC” zone on the draft Ping Shan OZP No. S/YL-PS/19 gazetted on 7.5.2021.
- 4.2 The Site is the subject of active planning enforcement cases (No. E/YL-PS/747 and 748) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notices were issued on 13.9.2022 requiring the discontinuation of the UD by 13.10.2022. The Site is being closely monitored under established practice.

### **5. Town Planning Board Guidelines**

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) are relevant to the application. The Site falls within Category 2 area under the Guidelines. Relevant extract of the Guidelines is at **Appendix II**.

### **6. Previous Applications**

- 6.1 The Site is involved in eleven previous applications for various temporary open storage uses with/without warehouse since the publication of the draft Ping Shan OZP No. S/YL-PS/1 in 1996, which all were approved by the Committee. Details of these previous applications are summarised in **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 The eleven applications (No. A/YL-PS/14, 40, 76, 185, 203, 276, 333, 423, 529, 619 and 647) were approved with conditions by the Committee from 1997 to 2021 mainly on considerations that previous approvals for similar or same uses were given and approval conditions of the previous applications were complied with, temporary approval would not jeopardise the long-term planning intention, the development would unlikely have significant adverse traffic and environmental impacts and concerned departments had no objection to the applications. However, the planning permissions under applications No. A/YL-PS/76 and 185 were revoked due to non-compliance with approval conditions. The last two previous applications No. A/YL-PS/619 and 647 (submitted by the same applicant for the same use) were also revoked on 18.6.2021 and 26.2.2022 respectively due to non-compliance with approval condition on the submission of drainage proposal. For application No. A/YL-PS/647, the applicant had complied with approval conditions on the provision of fire extinguishers and submission of a fire service installations proposal. Nonetheless, as the drainage proposal submitted was considered unsatisfactory, the planning permission was revoked.

- 6.3 Compared with the last application (No. A/YL-PS/647), the current application is submitted by the same applicant for the same use at a slightly larger site with largely similar layout and development parameters.

## **7. Similar Applications**

- 7.1 There are five similar applications (No. A/YL-PS/579, 603, 612, 616 and 653) for open storage use within/partly within the same “R(A)6” zone in the past five years. Details of these applications are summarized at **Appendix III** and the locations of these application sites are shown on **Plan A-1a**.
- 7.2 The applications were approved with conditions by the Committee between 2019 and 2022 mainly on the considerations that the development was not incompatible with the surrounding uses, concerned departments had no adverse comment, approval conditions could be imposed to address departmental concerns, approvals for similar uses were given and approval conditions of the previous applications were complied with.

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

- 8.1 The Site is:
- (a) partly used for open storage of construction machineries and materials, and partly used for warehouse of hardware materials without valid planning permission; and
  - (b) accessible via a local track from Tin Wah Road and Tin Tsz Road (**Plans A-2 and A-3**).
- 8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to planning enforcement action:
- (a) to its east is an open storage yard covered by valid planning permission under application No. A/YL-PS/612;
  - (b) to its immediate south are a residential structure and an open storage yard. To its further south and southwest are open storage yards covered by valid planning permissions under applications No. A/YL-PS/603 and 616;
  - (c) to its immediate west are a residential structure and an open storage yard. To its further west is an area used for vehicle parking; and
  - (d) to its north is an open storage yard covered by valid permission under application No. A/YL-PS/653.

## **9. Planning Intention**

The “R(A)” zone is intended primarily for high-density residential developments. Commercial uses are always permitted on the lowest three floors of a building or in the purpose-designed non-residential portion of an existing building.

## **10. Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to/no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices IV** and **V** respectively.
- 10.2 The following government departments do not support/have comments on the application:

### **Environment**

#### **10.2.1 Comments of the Director of Environmental Protection (DEP):**

- (a) he does not support the application as the application involves the use of heavy goods vehicle and there are sensitive receivers of residential use in the vicinity (with the nearest one situated in the immediate south and west) (**Plan A-2**), thus environmental nuisance is expected;
- (b) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice (COP) on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”; and
- (c) there is no substantiated complaint pertaining to the Site in the past three years.

### **Long-term Development**

#### **10.2.2 Comments of the Chief Engineer/Housing Projects 3, Civil Engineering and Development Department (CE/HP3, CEDD);**

- (a) majority of the Site falls within the development area of the proposed public housing development near Tin Tsz Road. Some milestone dates of the public housing development as shown below:

<b>Key Activity</b>	<b>Milestone Date</b>
Completion of Land Resumption/Land Clearance	Q2 2026
Commencement of Construction Phase	Q3 2026
Completion of Public Housing Construction	Q4 2033

- (b) in order to meet the above-mentioned milestone dates, the land resumption/land clearance process to facilitate the commencement of construction phase would need to commence in Q1 2025. Meanwhile, as the concerned housing project programme may possibly be advanced to meet the acute housing needs, it is recommended that the planning permission for the Site should not be granted beyond end 2024.

#### **10.2.3 Comments of the Director of Housing (D of Housing):**

- (a) the Site is within the proposed public housing development at Tin Tsz Road, Yuen Long; and
- (b) provided that the application will not have any adverse implication on CEDD's implementation programme on the site formation and infrastructure works to facilitate the public housing development, HD has no objection to the application.

## **11. Public Comments Received During Statutory Publication Period**

On 27.9.2022 and 13.1.2023, the application was published for public inspection. During the statutory public inspection periods, two public comments from individuals were received (**Appendices VII-1 and VII-2**) objecting to the application on the grounds that the development will cause adverse traffic, environmental and fire safety impacts to the surrounding areas, and that the applicant has failed to comply with the approval conditions under the previous application.

## **12. Planning Considerations and Assessments**

- 12.1 The application is for temporary warehouse and open storage of plastic and hardware materials for a period of three years at the Site mainly zoned "R(A)6" (about 96.4%) on the OZP. The "R(A)" zone is intended primarily for high-density residential developments. The Site falls within the development area of the proposed public housing development near Tin Tsz Road. D of Housing has no objection to the application provided that the application will not have any adverse implication on CEDD's implementation programme on the site formation and infrastructure works to facilitate the public housing development. While CE/HP3 of CEDD recommends that the planning permission at the Site should not exceed 2024 to facilitate land resumption/land clearance in Q1 2025, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects. As such, approval of the temporary use under application is not expected to affect the implementation of the public housing development nor frustrate the long-term planning intention.
- 12.2 The Site is situated in an area of miscellaneous rural fringe landscape character predominated by open storage yards, warehouses, open-air car parks and temporary structures. The applied use is considered not incompatible with the surrounding environment (**Plans A-2 and A-3**).
- 12.3 The Site falls within Category 2 area under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 2 area: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is considered generally in line with the TPB PG-No. 13F, in that the Site is the subject of two previous approved planning applications No. A/YL-PS/619 and 647 submitted by the same applicant for the same use covering largely the same site. While the applicant had complied with approval conditions on the provision of fire extinguishers and submission of a fire service installations proposal under application No. A/YL-PS/647, the planning permission was revoked as the drainage submission was considered not satisfactory. In this regard, the applicant has submitted a drainage proposal for the current application and provided justifications for the non-compliance with the relevant approval conditions under previous approvals, i.e. due to failure to solicit professional assistance in preparing the drainage proposal and to submit EOT application. As such, sympathetic consideration may be given to the application. The applicant will be advised that should he fail to comply with any of the approval conditions again resulting in revocation of the planning permission, sympathetic consideration would not be given to any further applications.
- 12.5 Relevant government departments including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design & Landscape of Planning Department have no objection to or no adverse comment on the application, except DEP. The applied use will unlikely create adverse traffic, drainage, fire safety and landscape impacts on the surroundings. Although DEP does not support the application as there are sensitive receivers in the vicinity of the Site, with the nearest one located immediate west and south of the Site (**Plan A-2**) and environmental nuisance is expected, there is no substantiated complaint pertaining to the Site in the past three years. To address the technical requirements of other concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below. Should the application be approved, the applicant will also be advised to follow the latest 'Code of Practice on Handling Environment Aspects of Temporary Uses and Open Storage Sites' to minimise the possible environmental impacts on the surrounding areas.
- 12.6 The Committee has previously approved eleven applications covering the Site for various temporary open storage uses with/without warehouse since 1997 mainly on considerations that previous approvals for similar or same uses were given and approval conditions of the previous applications were complied with, temporary approval would not jeopardise the long-term planning intention, the development would unlikely have significant adverse traffic and environmental impacts and concerned departments had no objection to the applications. Within the same "R(A)6" zone, there are five approved applications for various open storage uses for similar reasons. Approval of the application is in line with the previous decisions of the Committee.
- 12.7 Two public comments were received objecting to the application on the grounds as summarised in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department

considers that the temporary warehouse and open storage of plastic and hardware materials 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 **3.3.2026**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the implementation of the accepted 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 **3.12.2023**;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) the provision of fire extinguisher(s) 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 **14.4.2023**;
- (d) 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 **3.9.2023**;
- (e) in relation to (d) 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 **3.12.2023**;
- (f) if the above planning condition (b) is not complied with during the 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), (c), (d) or (e) is not complied with by the above 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 "R(A)6" zone, which is primarily for high-density residential developments. No strong planning justification has been given 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 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 the 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**

<b>Appendix I</b>	Application form with Attachments received on 19.9.2022
<b>Appendix Ia</b>	SI received on 22.9.2022
<b>Appendix Ib</b>	FI received on 4.1.2023
<b>Appendix Ic</b>	FI received on 10.2.2023
<b>Appendix Id</b>	FI received on 15.2.2023
<b>Appendix II</b>	Extract of 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)
<b>Appendix III</b>	Previous and Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Advisory Clauses
<b>Appendix VI</b>	'Good Practice for Open Storage Sites' issued by the Fire Services Department
<b>Appendices VII-1 and VII-2</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Vehicular Access Plan
<b>Drawing A-3</b>	Drainage Proposal
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and 4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2023**