

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

APPLICATION NO. A/YL-PS/675

- Applicant** : Hoi Fu Man Fung Gondola Company Limited represented by Mr. Wong Sun Wo William
- Site** : Lots 48 (Part), 64 (Part) and 65 (Part) in D.D. 126, Ping Shan, Yuen Long
- Site Area** : About 11,145m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/20
- Zoning** : “Recreation” (“REC”)
- Application** : Proposed Temporary Shop and Services (Selling of Gardening and Construction Materials) for a Period of 5 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services (selling of gardening and construction materials) for a period of five years and associated filling of land at the application site (the Site). The Site falls within an area zoned “REC” on the OZP (**Plan A-1**). According to the Notes of the OZP for the “REC” zone, both ‘Shop and Services’, which is a Column 2 use, and filling of land require planning permission from the Town Planning Board (the Board). The Site is currently largely vacant with a converted container at the southeastern corner and cleared of vegetation with some extent of land filling 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 proposed layout plan at **Drawing A-1**, fourteen temporary structures with a total floor area of about 2,985m² and building height of 1 storey (3.5-8m) for shop, office and toilet uses are proposed at the Site. Six private car parking spaces and six light goods vehicle parking spaces will be provided. The applicant proposes filling of land at the entire site with a depth of about 0.15m using concrete for site formation for structures and provision of circulation space. The operation hours will be from 8:00 a.m. to 6:00 p.m. daily, including Sundays and public holidays. The proposed layout plan, vehicular access plan, proposed land

filling plan, drainage proposal and landscape proposal are shown at **Drawings A-1 to A-5** respectively.

- 1.3 The Site is involved in two previous applications for temporary open storage uses (A/YL-PS/398 and 441) (**Plan A-1**) (details at paragraph 6 below).
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 31.1.2023 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 2.2.2023 (**Appendix Ia**)
 - (c) Further Information (FI) received on 24.2.2023* (**Appendix Ib**)
 - (d) FI received on 8.3.2023* (**Appendix Ic**)
 - (e) FI received on 13.3.2023* (**Appendix Id**)

**accepted and exempted from publication and recounting requirements*

2. Justifications from the Applicant

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

- (a) The applicant has been selling gardening and construction materials at a site in Tong Yan San Tsuen but it is subject to land resumption by the Government. The applicant would like to continue the business operation at the Site.
- (b) Agricultural uses and “Green Belt” zone are in close proximity to the Site. The proposed use will provide support to families and persons interested in farming by selling gardening/farming tools and seeds and providing advice on farming practice.
- (c) Drainage facilities will be provided at the Site to minimise adverse impact to the surrounding areas.

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

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

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Developments within Deep Bay Area under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 12C) are relevant to this application. According to the said Guidelines, the Site falls within the Wetland Buffer Area (WBA). Relevant extract of the Guidelines is at **Appendix II**.

6. Previous Applications

Part of the Site is involved in two previous applications (No. A/YL-PS/398 and 441) for temporary open storage of construction materials and machinery each for a period of three years rejected by the Rural and New Town Planning Committee (the Committee) of the Board between 2012 and 2014. The considerations for the applications are not relevant to the current application, which involves a different use. Details of the applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.

7. Similar Application

There is one similar application (No. A/YL-PS/614) for proposed temporary shop and services (convenience store and retail shop) with ancillary office and toilet for a period of three years within the same “REC” zone on the OZP in the past five years. The application was approved with conditions by the Committee in 2020 mainly on considerations that the proposed use would not frustrate the long-term planning intention of the “REC” zone; not incompatible with the surrounding areas; concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions. Details of the application are summarised at **Appendix III** and the location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) largely vacant with a converted container at the southeastern corner and cleared of vegetation with some extent of land filling without valid planning permission; and
- (b) accessible via a local track from Tin Wah Road and Tin Tsz Road.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorized developments subject to planning enforcement action:

- (a) to its north, east and southeast are open storage yards, cultivated agricultural land and scrubland/woodland;
- (b) to its south and southwest are a works site, an area used for vehicle parking covered by valid planning permission under application No. A/YL-PS/661, and a barbecue site; and
- (c) to its west and northwest are areas used for vehicle parking and grassland/scrubland.

9. Planning Intention

- 9.1 The “REC” zone is intended primarily for recreational developments for the use of the general public. It encourages the development of active and/or passive recreation and tourism/eco-tourism. Uses in support of the recreational developments may be permitted subject to planning permission.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage impacts on the adjacent areas and adverse impacts on the environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

- 10.1 Apart from the government department as set out in paragraph 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 are provided in **Appendices IV and V** respectively.
- 10.2 The following government department has adverse comments on the application:

Land Administration

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

- (a) the application 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) LandsD has grave concerns given there are unauthorized building works and/or uses on Lots 48 and 64 in D.D. 126 which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD; and
- (c) his advisory comments are at **Appendix V**.

11. Public Comment Received During Statutory Publication Period

On 7.2.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix VI**) objecting to the application on the grounds of not in line with the planning intention of the “REC” zone, proposed open storage use is too close to conservation area, and suspected filling of ponds at the Site.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary shop and services (selling of gardening and construction materials) for a period of five years and associated filling of land at the Site zoned “REC” on the OZP. According to Principal Land Executive/Yuen Long Projects, Lands Department, the applicant is one of the business undertakings affected by land resumption for public housing development at Long Bin, and its

business operation mainly involves storage of machines and construction materials, and the operator also engages in agricultural activities with cultivation and greenhouse. The applicant has identified the Site for relocation of their business operation. Although the proposed use is not in line with the planning intention of the “REC” zone, there is no known development proposal for the Site. As such, approval of the application on a temporary basis for a period of five years will not frustrate the long-term planning intention of the “REC” zone.

- 12.2 The requirement for planning permission for filling of land within “REC” zone is to address the possible drainage impact on the adjacent areas and adverse impacts on the environment. In this regard, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives. Approval conditions would also be imposed to address CE/MN, DSD’s requirements on the drainage aspect.
- 12.3 The Site is situated in an area of miscellaneous rural fringe predominated by open storage yards, temporary structures, vacant land and woodland. The proposed use is considered not incompatible with the surrounding environment.
- 12.4 Although the Site falls within the WBA of the TPB PG-No. 12C, planning applications for local and minor uses (including temporary uses) are exempted from the requirement of ecological impact assessment. In this regard, Director of Agriculture, Fisheries and Conservation has no comment on the application. Adverse ecological impact is not envisaged.
- 12.5 Relevant government departments including Commissioner for Transport, Director of Fire Services and Chief Town Planner/Urban Design & Landscape, Planning Department have no objection to or no adverse comment on the application. The proposed use will unlikely create adverse traffic, fire safety and landscape impacts on the surroundings. To address the technical requirements of concerned government departments, relevant approval conditions have been recommended in paragraph 13.2 below. With regards to DLO/YL, LandsD’s comments regarding unauthorized building works and/or uses, the Site is currently largely vacant with a converted container at the southeastern corner and the applicant/lot owner(s) will be advised to remedy the lease breaches or to regularise any irregularities with LandsD.
- 12.6 The Committee has approved a similar application for temporary shop and services use in the past five years, mainly on considerations that the proposed use would not frustrate the long-term planning intention of the “REC” zone; not incompatible with the surrounding areas; concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions. Approval of the application is in line with the previous decision of the Committee.
- 12.7 One public comment was received objecting to the application on the grounds as summarised in paragraph 11 above. The application does not involve pond filling and the Site is not the subject of any planning enforcement action, and the planning considerations and assessments in paragraphs 12.1 to 12.6 above are also relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 five years until **31.3.2028**. 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 the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **30.9.2023**;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **31.12.2023**;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (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 **30.9.2023**;
- (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 **31.12.2023**;
- (f) if the above planning condition (c) 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), (b), (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 reasons for rejection are suggested for Members' reference:
- (a) the proposed use is not in line with the planning intention of the "REC" zone, which is intended primarily for recreational developments for the use of the general public. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and

- (b) the applicant fails to demonstrate in the submission that the proposed land filling is essential for the proposed use.

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

Appendix I	Application form with Attachments received on 31.1.2023
Appendix Ia	SI received on 2.2.2023
Appendix Ib	FI received on 24.2.2023
Appendix Ic	FI received on 8.3.2023
Appendix Id	FI received on 13.3.2023
Appendix II	Extract of the TPB PG-No. 12C
Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Advisory Clauses
Appendix VI	Public Comment
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan
Drawing A-3	Proposed Land Filling Plan
Drawing A-4	Drainage Proposal
Drawing A-5	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**