

RNTPC Paper No. A/YL-PS/699
For Consideration by
the Rural and New Town
Planning Committee
on 24.11.2023

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PS/699

- Applicant** : Mr. TANG Chi-hok represented by Goldrich Planners and Surveyors Ltd.
- Site** : Lots 57 RP(Part) and 58 RP(Part) in D.D.126, Ping Shan, Yuen Long, New Territories
- Site Area** : About 2,645 m²
- 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) (**Plan A-1**). According to the Notes of the OZP for the “REC” zone, ‘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 partially paved and vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, 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-2**, six temporary structures with a total floor area of about 1,140m² and building height of 1 storey (3-5m) for shops and ancillary office uses are proposed at the Site. Three private car parking spaces and three light goods vehicle parking spaces will be provided. The applicant proposes filling of land at the entire site with a depth of about 0.2m using concrete to regularise the filling of land for providing a solid ground for structures and site maintenance. Landscape planting is proposed along the western site boundary to mitigate the landscape and visual impacts arising from the applied use (**Drawing A-6**). Vehicles without valid licences issued

under Road Traffic Ordinance, nor vehicles exceeding 5.5 tonnes including medium/heavy goods vehicles and container trailers/tractors are not allowed to enter the Site. Parking spaces are reserved for customers with prior notification obtained. The operation hours will be from 9:00 a.m. to 7:00 p.m. daily, including Sundays and public holidays. The vehicular access plan, proposed layout plan, filling of land layout plan, swept path analysis plan, public transport access plan and landscape proposal plan are shown at **Drawings A-1 to A-6** respectively.

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

- (a) Application form and supplementary statement (**Appendix I**) received on 27.9.2023
- (b) Further information (FI) received on 31.10.2023 (**Appendix Ia**)

[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 at **Appendices I**. They can be summarised as follows:

- (a) the proposed use and proposed structures are temporary in nature, and would not frustrate the long-term planning intention of the “REC” zone;
- (b) the Site is currently hard-paved and the application serves to regularise the filling of land operation; and
- (c) the proposed use is in accordance to the planning intention of “REC” zone and will not bring about adverse impact to the surroundings; and similar applications for similar use were approved by the Rural and New Town Planning Committee (the Committee) of the Board.

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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending registered mail to the Ping Shan Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site was the subject of planning enforcement case (No. E/YL-PS/754) against unauthorized development (UD) involving parking of vehicles and storage use (including deposit of containers) (**Plan A-2**). An Enforcement Notice (EN) was issued on 10.5.2023 requiring discontinuation of the UD. Subsequent site

inspections revealed that the UD has been discontinued. Compliance Notice for the EN was issued on 28.9.2023.

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

The Site is involved in four previous applications (No. A/DPA/YL-PS/50, A/YL-PS/244, 441 and 523) for temporary container vehicle park, temporary open storages and temporary public vehicle park which were all rejected by the Committee between 1996 to 2016. The considerations for the said applications are not relevant to the current application which involves a different use. Details of these previous applications are shown in **Appendix III** and their locations are shown on **Plan A-1b**.

7. Similar Applications

There are two similar applications (No. A/YL-PS/614 and 675) for temporary shop and services each for a period of three years within the same “REC” zone on the OZP in the past five years. Both applications were approved with conditions by the Committee between 2020 and 2023 mainly on the considerations that the proposed use would not frustrate the long-term planning intention of the “REC” zone; the proposed use was not entirely incompatible with the surrounding areas; the proposed use would unlikely create significant adverse landscape, environmental, traffic, drainage and fire safety impacts on the surrounding areas; and relevant government departments had no adverse comment on / no objection to the application or the technical concerns could be addressed by approval conditions. Details of the applications are summarised at **Appendix IV** and the location of the application is shown on **Plan A-1a**.

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

8.1 The Site is:

- (a) partly paved and vacant; 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:

- (a) comprise open storage yards, warehouse, parking of vehicles, barbecue site intermixed with shrubland, plant nurseries, active agricultural land, woodland, unused land, ponds and vacant land and Yuen Long Community Green Station;

- (b) to the immediate north is a vacant site which is the subject of planning application No. A/YL-PS/698 for temporary public vehicle park (coaches) and associated filling of land to be considered at the same meeting; and
- (c) to the immediate east of is a site covered by valid planning permission under application No. A/YL-PS/675 for proposed temporary shop and services (selling of gardening and construction materials).

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 environment, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

All government 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 V** and **VI** respectively.

11. Public Comment received During the Statutory Publication Period

On 6.10.2023, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual questioning the demand for gardening materials and the possible proliferation of brownfield operations (**Appendix VII**).

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. Although the applied use is not entirely in line with the planning intention of the “REC” zone, the applied use can meet such demand for shop and services in the area. Besides, there is no known development proposal for the Site in the “REC” zone. Approval of the application on a temporary basis for a period of five years would 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, the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives.

- 12.3 The Site is situated in an area of miscellaneous rural fringe predominated by parking of vehicles, warehouse, open storage, barbecue site, plant nurseries fish ponds and scrubland (**Plan A-2**). The applied use is not entirely incompatible with the surrounding areas.
- 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, the Director of Agriculture, Fisheries and Conservation has no comment on the application.
- 12.5 Relevant government departments, including the Commissioner of Transport, CE/MN, DSD, DEP, Director of Fire Services and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or adverse comment on the application. The proposed use will unlikely create significant adverse traffic, drainage, environmental, fire safety and landscape impacts on the surrounding areas. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will also be subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”.
- 12.6 The Committee approved two similar applications for the same use within the same “REC” zone between 2020 and 2023. Approval of the current application is generally in line with the Committee’s previous decisions.
- 12.7 Regarding the public comment objecting to the application as stated 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 assessment 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 **24.11.2028**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the

Director of Fire Services or of the Town Planning Board by **24.5.2024**;

- (b) in relation to (b) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **24.8.2024**;
- (c) 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 **24.5.2024**;
- (d) in relation to (c) above, the implementation of the revised drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **24.8.2024**;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) if the above planning condition (e) 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), (c) 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 attached at **Appendix VI**.

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

- (a) the proposed use is not in line with the planning intention of the "REC" zone which is primarily for recreational developments for the use of general public. No strong planning justification has been provided 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
Appendix Ia	FI dated 31.10.2023
Appendix II	Extract of the TPB PG-No. 12C
Appendix III	Previous Applications
Appendix IV	Similar Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendices VII	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Filling of Land Area Plan
Drawing A-4	Swept Path Analysis Plan
Drawing A-5	Public Transport Service Plan
Drawing A-6	Landscape Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**