

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TT/550

- Applicant** : Kong Wai Industrial Company Limited represented by R-riches Property Consultants Limited
- Site** : Lots 1474 (Part), 1477 S.A (Part), 1477 S.B (Part), 1477 S.A ss.1 (Part), 1477 S.B ss.5 (Part), 1477 S.B ss.2 RP (Part) and 1477 S.B ss.2 S.A (Part) in D.D. 117 and Adjoining Government Land (GL), Tai Tong, Yuen Long, New Territories
- Site Area** : 4,266 m² (about) (including GL of about 390m² or 9.1%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tai Tong Outline Zoning Plan (OZP) No. S/YL-TT/18
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Wholesale Trade with Ancillary Facilities for a Period of 5 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary wholesale trade with ancillary facilities for a period of 5 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP for the “OS” zone, ‘Wholesale Trade’ is a Column 2 use requiring planning permission from the Town Planning Board (the Board). The Site is currently occupied by open storage of recycling materials and a recycling workshop (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Tai Tong Shan Road via a local track (**Plan A-2**). According to the applicant, the proposal is intended for wholesale trade of metal goods to serve retailers. No container tractor/trailers will be allowed to access the Site. Plans showing the vehicular access leading to the Site and site layout submitted by the applicant are at **Drawings A-1 and A-2** respectively.
- 1.3 The Site is the subject of one previous application (No. A/YL-TT/449) (details at paragraph 5 below).
- 1.4 The major development parameters of the previously approved application (No. A/YL-TT/449) and the current application are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TT/449 (a)	Current Application No. A/YL-TT/550 (b)	Difference (b)-(a)
Proposed Use	Proposed Temporary Wholesale Trade (Metal Ware) for a Period of 3 Years	Proposed Temporary Wholesale Trade with Ancillary Facilities for a Period of 5 Years	Longer Approval Period Sought
Site Area	About 34,493 m ²	About 4,266 m ²	-30,227 m ² (-87.6%)
Total Floor Area (non-domestic)	About 25,625 m ²	About 3,110 m ²	-22,515 m ² (-87.9%)
No. and Height of Structures	2 • for wholesale trade, water tank and site office (8.23m, 1-2 storey(s))	8 • for wholesale trade, storage, site office and toilet (3-8m, 1-2 storey(s))	+6 (+300%)
No. of Parking Spaces	1 (for private car) (5m x 2.5m)	4 (for private cars) (5m x 2.5m each)	+3 (+300%)
No. of Loading and Unloading Spaces	12 • 8 for light goods vehicles (7m x 3.5m each) • 4 for container vehicles (16m x 3.5m each)	2 • for medium goods vehicles (11m x 3.5m each)	-10 (-83.3%)
Operation Hours	10:00 a.m. to 5:00 p.m. daily	9:00 a.m. to 6:00 p.m., with no operation on Sundays and public holidays	Longer Daily Operation Hours but close on Specific Days

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

- (a) Application Form with appendix and plans received on 3.5.2022 **(Appendix I)**
- (b) Further Information (FI) received on 16.6.2022 **(Appendix Ia)**
[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 FI **(Appendices I and Ia)**. They can be summarised as follows:

- (a) The temporary proposal would not jeopardise the planning intention of the “OS” zone. Approval of the application would not set an undesirable precedent.
- (b) The applicant undertakes to strictly follow the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (Code of Practice) and the Professional Persons Environmental Consultative Committee

Practice Notes to minimise any potential environmental impacts/nuisances on the surrounding area.

- (c) There is sufficient space for manoeuvring of vehicles within the Site. Relevant mitigation measures and proposals will be provided after approval of the application. Adverse traffic, environmental, landscape and drainage impacts arising from the proposal are not anticipated.

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. 31A) by posting site notice and sending the notice to the Shap Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the requirements under the TPB PG-No. 31A are not applicable.

4. Background

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

5. Previous Application

The Site involves one previous application (No. A/YL-TT/449) covering a much larger site for proposed temporary wholesale trade (metal ware), which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board for a period of 3 years on 22.2.2019, mainly on the considerations that the proposal was not entirely in conflict with the planning intention of the “OS” zone; approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposal was not incompatible with the surrounding environment; and the concerns of departments could be addressed by imposing approval conditions. However, the planning permission was revoked on 22.5.2021 due to non-compliance with time-limited approval conditions. Compared with the previous application, the current application is submitted by a different applicant for a similar wholesale trade use with different site layout and development parameters on a much smaller site. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**.

6. Similar Applications

There are three similar applications (No. A/YL-TT/401, 490 and 536) for temporary wholesale trade with other uses within/straddling the subject “OS” zone, which were all approved with conditions by the Committee each for a period of three or five years between 2017 and 2022, mainly on similar considerations as those specified in paragraph 5 above. However, the planning permission of application No. A/YL-TT/401 was revoked in 2019 due to non-compliance with approval condition. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible via a local track leading from Tai Tong Shan Road to its northeast (**Drawing A-1** and **Plan A-3**);
- (b) mainly hard-paved and fenced-off; and
- (c) currently occupied by open storage of recycling materials and a recycling workshop (**Plans A-2** to **A-4b**).

7.2 The surrounding areas have the following characteristics (Plans A-2** and **A-3**):**

- (a) predominantly open storage/storage yards and warehouses intermixed with parking of vehicles, graves and unused land in the subject “OS” zone;
- (b) there is a residential structure located to the immediate south of the Site; and
- (c) to the further south of the Site in an area zoned “Recreation” on the subject OZP is a racing circuit.

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 provides 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 III** and **IV** respectively.

9.2 The following government department does not support the application.

Environment

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

- (a) He does not support the application as there is a residential use located to the immediate south of the Site (**Plan A-2**) and the proposed use will cause traffic of heavy vehicles; environmental nuisance is expected.
- (b) Six substantiated environmental complaints on odour, noise and effluent discharge aspects were received in the past three years mainly related to a plastic recycling yard at part of the Site.

According to her department's investigations, no non-compliance activity was spotted on all six occasions.

- (c) The applicant should note her advisory comments in the Recommended Advisory Clauses in **Appendix V**.

10. Public Comments Received During the Statutory Publication Period

- 10.1 On 10.5.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, 138 public comments were received, including 137 objecting comments and one comment providing views. A full set of public comments will be deposited at the meeting for Members' inspection.

Objecting Comments (137 Comments)

- 10.2 137 objecting comments are made by local villagers/residents (made on five standard letters, examples of which are extracted at **Appendices V-1 to V-5**), objecting to the application mainly on the grounds that the proposal will cause adverse traffic, road safety, environmental (noise, air and dust pollution), drainage and *feng shui* impacts on the surrounding area, and no relevant assessments have been submitted to demonstrate otherwise; the use of heavy vehicles will damage a locally-funded local track; the proposal with unclear operational details may involve recycling of plastic, which would generate toxic odour; and approving an obnoxious trade at the Site will adversely affect the tourism value of the area.

Other Comment (1 Comment)

- 10.3 One individual urges the Board to question if there will be further applications covering the other portions of the site of the previous application, and opines that failure to comply with approval conditions with public health and environmental implications should not be tolerated (**Appendix V-6**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary wholesale trade with ancillary facilities for a period of 5 years at the Site zoned "OS" on the OZP. The planning intention of the "OS" zone is primarily for the provision of land for appropriate open storage uses. The proposed use is not in conflict with this planning intention since the proposed wholesale trade with ancillary storage under some large covered structures (**Drawing A-2**) would be akin to warehouse or cargo handling and forwarding facility uses which are generally always permitted in the subject "OS" zone. Although the currently proposed wholesale trade use may induce comparatively more traffic as compared to a warehouse, Commissioner for Transport has no adverse comment on the application. Moreover, as the application is for temporary use of the Site for five years only, approval of the application on a temporary basis would not jeopardise the long-term planning intention for the Site.
- 11.2 The surrounding areas comprise predominantly open storage/storage yards and warehouses intermixed with parking of vehicles (**Plan A-2**). While there is a

residential structure in the vicinity, the proposed use is generally not incompatible with the surrounding uses in the area.

- 11.3 There is no adverse comment on the application from concerned government departments, except DEP. DEP does not support the application as there is a sensitive receiver of residential use to the immediate south of the Site (**Plan A-2**), and the proposed use will cause traffic of heavy vehicles; environmental nuisance is expected. While there were six substantiated environmental complaints received in the past three years, they were mainly related to a plastic recycling yard not relevant to the current proposed wholesale trade of metal goods. Moreover, relevant approval conditions are recommended in paragraph 12.2 below to minimise any potential environmental nuisances or to address the technical requirements of concerned government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorised development on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental impact on the surrounding areas and all relevant environmental protection and pollution control ordinances should be observed and complied with.
- 11.4 Given that one previous approval for the same use has been granted to the Site, and three similar wholesale trade uses have been approved within/straddling the subject “OS” zone, approval of the current application is generally in line with the Committee’s previous decisions.
- 11.5 There are 138 public comments objecting to/providing views on the application as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are generally relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments 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 5 years until 24.6.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no operation between 6:00 p.m. and 9:00 a.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) the submission of a 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 24.12.2022;

- (d) in relation to (c) above, the implementation of the 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 24.3.2023;
- (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) 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 24.12.2022;
- (g) in relation to (f) 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 24.3.2023;
- (h) if any of the above planning condition (a), (b) or (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
- (i) if any of the above planning condition (c), (d), (f) or (g) 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 IV**.

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

the applicant fails to demonstrate that the proposed development would not generate adverse environmental impact on the surrounding areas.

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 appendix and plans received on 3.5.2022

Appendix Ia	FI received on 16.6.2022
Appendix II	Previous Application and Similar Applications within/straddling the Subject “OS” Zone
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-6	Public Comments Received During the Statutory Publication Period (extracted)
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan
Plan A-1	Location Plan with Previous and Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2022**