

# **TOWN PLANNING BOARD**

**TPB Paper No. 10885**

**For Consideration by  
the Town Planning Board on 24.2.2023**

**REVIEW OF APPLICATION NO. A/YL-NTM/447**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Open Storage for a Period of 3 Years and Filling of Land  
in “Green Belt” Zone,  
Lots 2273, 2277 and 2278 in D.D. 102, Ngau Tam Mei, Yuen Long**

---

**REVIEW OF APPLICATION NO. A/YL-NTM/447**  
**UNDER SECTION 17 OF THE TOWN PLANNING ORDINANCE**

**Proposed Temporary Open Storage for a Period of 3 Years and Filling of Land  
in “Green Belt” Zone,  
Lots 2273, 2277 and 2278 in D.D. 102, Ngau Tam Mei, Yuen Long**

**1. Background**

- 1.1 On 19.9.2022, the applicant, Fu Hop Yick Investment Limited, submitted the subject application under the Section 16 of the Town Planning Ordinance (the Ordinance) to seek permission for proposed temporary open storage for a period of 3 years and filling of land at the application site (the Site), with an area of about 1,770m<sup>2</sup>, which falls within an area zoned “Green Belt” (“GB”) on the approved Ngau Tam Mei Outline Zoning Plan (the OZP) No. S/YL-NTM/12 (**Plan R-1**).
- 1.2 On 11.11.2022, the Rural and New Town Planning Committee (the RNTPC) of the Town Planning Board (the Board) decided to reject the application for the following reasons:
  - (a) the proposed use and filling of land are not in line with the planning intention of the “GB” zone which is intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (b) the proposed use and filling of land are not in line with the Town Planning Board Guidelines for ‘Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the proposed use and filling of land are incompatible with the surrounding area and will affect the landscape character; and
  - (c) the proposed use and filling of land are not in line with 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) in that there is no previous planning approval for the proposed use at the Site and there are adverse departmental comments on landscape aspect.
- 1.3 There is no change in the development proposal as compared with the one at the Section 16 application stage. According to the applicant, the ingress/egress (about 6m wide) is located at the eastern boundary of the Site, which is

accessible to Kwu Tung Road via a local access (**Plan R-2**). There are two single-storey structures (about 4m in height) with a total floor area of about 603m<sup>2</sup> at the Site, which are for storage of homeware uses. There will be one private car parking space and one light goods vehicle parking space. The Site has been filled with concrete for 0.1m in depth without valid planning permission. The operation hours of the proposed use are from 9:00 a.m. to 7:00 p.m. from Mondays to Sundays, including the public holiday. The layout plan submitted by the applicant are at Drawing A-1 of **Annex A**.

1.4 For Members' reference, the following documents are attached:

- (a) RNTPC Paper No. A/YL-NTM/447 (**Annex A**)
- (b) Extract of minutes of the RNTPC Meeting held on 11.11.2022 (**Annex B**)
- (c) Secretary of the Board's letter dated 25.11.2022 (**Annex C**)

## 2. **Application for Review**

On 7.12.2022, the applicant applied, under Section 17(1) of the Ordinance, for a review of the RNTPC's decision to reject the application (**Annex D**). The applicant has not submitted any further information in support of the review.

## 3. **The Section 16 Application**

*The Site and Its Surrounding Areas* (**Plans R-1 and R-2**, aerial photo on **Plan R-3** and site photos on **Plan R-4**)

3.1 The situation of the Site and its surrounding areas at the time of consideration of the Section 16 application by the RNTPC are described in para. 8 of **Annex A**. There has not been any major change in the planning circumstances of the area since the consideration of the application by the RNTPC.

3.2 The Site is:

- (a) partly hard-paved, occupied by a vacant temporary structure and an open shed; and
- (b) accessible to Kwu Tung Road via a local access.

3.3 The surrounding areas are predominantly rural in character intermixed with open storage, vacant land, residential structures, ponds, grassland and woodland:

- (a) to its immediate north are storage and residential structures, and to the further north are warehouse, residential structures, pond and vacant land;
- (b) to its immediate northeast and east are a residential structure and vacant land respectively, to its further northeast and east are grassland and woodland which is zoned "Conservation Area" ("CA");

- (c) to its southeast are residential structures and vacant land;
- (d) to its immediate south are residential structures and open storage of vehicles, to its further south are vacant land and a temple;
- (e) to its southwest are vacant land, grassland and residential structures and to its immediate west are fish ponds; and
- (f) except for some residential structures to the immediate south and to the southwest, other residential structures, open storage yards and warehouses in the vicinity of the Site are mostly suspected unauthorised developments.

#### Planning Intention

- 3.4 The planning intention of the “GB” zone is intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

#### Town Planning Board Guidelines

- 3.5 The Town Planning Board Guidelines for ‘Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant assessment criteria of the Guidelines is attached at Appendix II of **Annex A**.
- 3.6 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) promulgated by the Board on 27.3.2022 is relevant to this application. The Site falls within Category 4 areas under the TPB PG-No. 13F. Relevant extract of the Guidelines is attached at Appendix II of **Annex A**.

#### Previous Applications

- 3.7 There is no previous application at the Site.

#### Similar Applications

- 3.8 There are three similar applications (No. A/YL-NTM/394, A/YL-NTM/395 and A/YL-NTM/433) involving two sites for temporary open storage of construction materials and machinery parts for a period of 3 years and one site for the filling of land within the “GB” zone on the same OZP in the past five years. All of them were rejected by the RNTPC from 2020 to 2022 mainly on the considerations that the applied uses being not in line with the planning intention of “GB” zone, not in line with the TPB PG- No. 10 and 13E, and the approval of applications would set an undesirable precedent for similar applications within the “GB” zone. Details of these applications are summarised at **Annex E** and the locations are shown on **Plan R-1**.

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

- 4.1 Comments on the Section 16 application made by the relevant Government departments are stated in para. 10 and Appendix IV of **Annex A**. Their advisory comments, if any, are in Appendix V of **Annex A** and recapped in **Annex G**.
- 4.2 For the review application, the relevant Government departments have been further consulted. All maintain their previous views on the Section 16 application and have no further comments on the review application. In relation to the reasons for rejection of the Section 16 application, the comments of the Chief Town Planner/Urban Design and Landscape Section, Planning Department (CTP/UD&L, PlanD) are recapitulated as below:

##### **Landscape**

##### **4.2.1 Comments of the CTP/UD&L, PlanD:**

- (a) The Site is partly hard-paved with temporary structures and partly covered with self-seeded vegetation. Existing trees of common species in fair condition are observed within the site. The Site has been filled with concrete for 0.1m in depth. However, no tree information and proposed tree treatment are provided in the application and therefore potential impact on the existing trees arising from the proposed use cannot be reasonably ascertained.
- (b) There is a concern that approval of the application would alter the landscape character of the “GB” zone and further degrade the landscape quality of surrounding environment. Hence, she has reservation on the application from landscape planning perspective.

#### **5. Public Comments on the Review Application Received During Statutory Publication Period**

- 5.1 On 16.12.2022, the review application was published for public inspection. During the first three weeks of the statutory public inspection period, a total of three public comments (**Annex F**) were received from the Kadoorie Farm and Botanic Garden Corporation and two individuals objecting to or raising concerns on the application on grounds that the proposed temporary use will create traffic issue, environmental pollution and increase fire risk thereby affecting the safety and living quality of the local residents; it is not in line with the planning intention of “GB” zone and will set undesirable precedent for similar cases in this “GB” zone; the Site has been filled with concrete without valid planning permission; and there is no information on existing trees within the Site and potential impacts on trees cannot be reasonably ascertained.
- 5.2 At the stage of Section 16 application, three public comments were received.

The summary of the comments are in para. 11 of **Annex A**.

## **6. Planning Considerations and Assessments**

- 6.1 The application is for a review of RNTPC's decision on 11.11.2022 to reject the application for proposed temporary open storage for a period of 3 years and filling of land at the Site which is zoned "GB". The application was rejected for the reasons stated in para. 1.2 above. The applicant has not submitted any further information in support of the review. There has been no change in the development proposal and planning circumstances of the Site since the consideration of the Section 16 application by the RNTPC. The previous planning considerations and assessments in para. 12 of **Annex A** remain valid, which are recapitulated below.
- 6.2 The planning intention of "GB" zone is for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. The applicant has not provided strong planning justifications that merit a departure from the aforementioned planning intention, even on a temporary basis. It is considered that the proposed use and filling of land is not in line with the planning intention of the "GB" zone.
- 6.3 The Site is in close vicinity of Ki Lun Shan falling within "CA" zone with woodland. Although there are a few open storages identified around the Site, they are operated without valid planning permission. The proposed temporary use and filling of land is considered incompatible with the surrounding major land uses which are rural in character and intermixed with ponds, woodland, grassland and residential dwellings, as well as the adjacent "CA" zone.
- 6.4 According to the TPB PG-No. 10, development in the "GB" zone should not involve extensive clearance of existing natural vegetation and affect the existing natural landscape, adversely affect drainage or aggravate flooding and slope stability in the area. While Chief Engineer/Mainland North, Drainage Services Department and Director of Environmental Protection have no adverse comment from drainage and environmental perspectives, CTP/UD&L of PlanD has reservation on the application that existing trees of common species in fair condition are observed within the Site but no tree information and proposed tree treatment are provided in the application, and potential impact on the existing trees arising from the proposed use cannot be reasonably ascertained. The approval of the current review application would alter the landscape character of the "GB" zone and further degrade the landscape quality of surrounding environment. It is considered that the proposed use and filling of land at the Site is not in line with the TPB PG-No. 10.
- 6.5 As mentioned in paragraph 3.6 above, the Site falls within Category 4 areas under the TPB PG-No. 13F in which applications for open storage and port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. The application is not in line with TPB PG-No. 13F in that no previous approval for the proposed use has been granted for the Site

and there are adverse departmental comments on landscape aspect.

- 6.6 There had been three similar applications for similar use in the “GB” zone for the past five years and all of them were rejected by the RNTPC on similar considerations that the proposed storage uses and land filling are not in line with the planning intention of “GB”, not in line with the TPB PG- No. 10 and 13E, and approval of the application would set an undesirable precedent resulting in general degradation of the environment of the area. Rejection of current review application is in line with the previous decisions of the RNTPC.
- 6.7 The public comments received for the review application as stated in para. 5.1 above are similar to those received at Section 16 stage. The planning assessments and departmental comments above are relevant.

## **7. Planning Department’s Views**

- 7.1 Based on the assessments made in para. 6, having taken into account the public comments mentioned in para. 5, and given that there is no major change in the planning circumstances since the consideration of the subject application by the RNTPC on 11.11.2022, the Planning Department maintains its previous view of not supporting the review application for the following reasons:
- (a) the proposed use and filling of land are not in line with the planning intention of the “GB” zone which is intended for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets and there is a general presumption against development within this zone. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
  - (b) the proposed use and filling of land are not in line with the Town Planning Board Guidelines for ‘Application for Development within Green Belt zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) in that the proposed use and filling of land are incompatible with the surrounding area and will affect the landscape character; and
  - (c) the proposed use and filling of land are not in line with 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) in that there is no previous planning approval for the proposed use at the Site and there are adverse departmental comments on landscape aspect.
- 7.2 Alternatively, should the Board 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 24.2.2026. 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 24.8.2023;
- (b) 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 24.11.2023;
- (c) in relation to (b) above, the implemented drainage facilities on the Site 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 24.8.2023;
- (e) 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 24.11.2023;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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; and
- (h) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached at **Annex G**.

**8. Decision Sought**

- 8.1 The Board is invited to consider the application for a review of the RNTPC's decision and decide whether to accede to the application.
- 8.2 Should the Board decide to reject the review application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 8.3 Alternatively, should the Board decide to approve the review 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.



**9. Attachments**

<b>Annex A</b>	RNTPC Paper No. A/YL-NTM/447
<b>Annex B</b>	Extract of minutes of the RNTPC meeting held on 11.11.2022
<b>Annex C</b>	Secretary of the Board's letter dated 25.11.2022
<b>Annex D</b>	Applicant's letter dated 7.12.2022 applying for review
<b>Annex E</b>	Similar applications
<b>Annex F</b>	Public comments on the review application
<b>Annex G</b>	Recommended advisory clauses

<b>Plan R-1</b>	Location Plan
<b>Plan R-2</b>	Site Plan
<b>Plan R-3</b>	Aerial Photo
<b>Plans R-4a and R-4b</b>	Site Photos

**PLANNING DEPARTMENT  
FEBRUARY 2023**