

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-LFS/373

- Applicant** : Grand Sino Hong Kong Development Limited
- Site** : Lots 148-151, 152 RP, 153 RP and 156 RP in D.D. 129, Lau Fau Shan, Yuen Long, New Territories
- Site Area** : About 2,486.05 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Lau Fau Shan and Tsim Bei Tsui Outline Zoning Plan (OZP) No. S/YL-LFS/9
- Zoning** : “Green Belt” (“GB”) (about 99.3%)
Area shown as ‘Road’ (about 0.7%)
- Application** : Proposed Temporary Open Storage of Vehicle Parts for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage of vehicle parts for a period of 3 years (**Plan A-1**). The majority of the Site (99.3%) falls within an area zoned “GB” with a small portion of the Site (0.7%) within the area shown as ‘Road’ on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is covered with gravel/soil, fenced-off and currently being used for parking of goods vehicles without valid planning permission.
- 1.2 The Site is accessible from Deep Bay Road. The ingress/egress point is located at the northern boundary of the Site (**Drawing A-1 and Plan A-2**). As shown on **Drawing A-2** and indicated in the submission, the Site will be used for open storage of vehicle parts. No structure is proposed while 1 private car/light goods vehicle loading/unloading space will be provided on the Site. The operation hours of the proposed open storage yard are 24 hours from Mondays to Sundays including public holidays.

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

- (a) Application Form received on 25.9.2020 with lot index (**Appendix I**) plan
- (b) Further Information received on 23.10.2020 providing (**Appendix Ia**) responses to the comment of the Transport Department regarding the deletion of the medium goods vehicle loading/unloading space
(*exempted from publication and recounting requirements*)
- (c) Further Information received on 6.11.2020 clarifying the (**Appendix Ib**) location of storage area and loading/unloading bay
(*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 and Ia**. They are summarized as follows:

- (a) The Site has been vacant for years. So it can provide extra storage space for the company to ease the pressure.
- (b) The applicant will only use light goods vehicle/private car. The trip generation is only once per week.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is not subject to any active enforcement action.

5. Town Planning Board Guidelines

5.1. The Town Planning Board Guidelines for “Application for Development within the Green Belt zone under Section 16 of the Town Planning Ordinance” (TPB PG-No. 10) are relevant to the application. The relevant assessment criteria are summarized as follows and detailed at **Appendix II**.

- (a) there is a general presumption against development (other than redevelopment) in “GB” zone. In general, the Board will only be prepared to approve applications for development in the context of requests to rezone to an appropriate use;

- (b) an application for new development in “GB” zone will only be considered in exceptional circumstances and must be justified with very strong planning grounds;
- (c) passive recreational uses which are compatible with the character of surrounding areas may be given sympathetic consideration;
- (d) the design and layout of any proposed development should be compatible with the surrounding area. It should not involve extensive clearance of existing natural vegetation, affect the existing natural landscape, and cause any adverse visual impact on the surrounding environment;
- (e) the proposed development should not overstrain the capacity of existing and planned infrastructure such as sewerage, road and water supply. It should not adversely affect drainage or aggravate flooding in the area;
- (f) the vehicular access road and parking provision proposed should be appropriate to the scale of the development and comply with relevant standards. Access and parking should not adversely affect existing trees or other natural landscape features; and
- (g) any proposed development on a slope or hillside should not adversely affect slope stability.

5.2. 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 also relevant to this application. According to the said Guidelines, the Site falls within Category 4 areas. Relevant extracts of the Guidelines are attached at **Appendix III**.

6. Previous Application

The Site is not subject to any previous application.

7. Similar Applications

There are seven similar applications (No. A/YL-LFS/200, 227, 262, 279, 285, 346 and 358) for various temporary warehouse and/or open storage uses for a period of 3 years within the same “GB” zone. All were rejected by the Committee between 2010 and 2020. The rejection reasons mainly include not in line with the planning intention of the “GB” zone and the relevant TPB Guidelines for ‘Application for Development within the Green Belt zone’, ‘Application for Development within the Deep Bay Area’ and/or ‘Application for Open Storage and Port Back-up Uses’; and setting an undesirable precedent for similar applications. Details of these applications and the Committee’s decision are summarized at **Appendix IV** and the locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) currently used for parking of goods vehicles without valid planning permission; and
- (b) accessible from Deep Bay Road (**Drawing A-1**).

8.2 The surrounding areas have the following characteristics:

- (a) to its north across Deep Bay Road are vacant land, warehouses and storage yard which are suspected unauthorized developments (UDs);
- (b) to its west are warehouses which are suspected UD; and
- (c) to its east and south are an open storage yard of recycling materials which is a suspected UD and vacant land.

9. Planning Intention

The planning intention of “GB” zone is primarily 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. However, limited development may be permitted if they are justified on strong planning grounds.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) The 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) Should the planning application be approved, the lot owner(s) of the lots will need to apply to his office for permitting the structures to be erected or to regularize any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Application(s) for any of the

above will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications will be approved. If such applications are approved, it will be subject to such terms and conditions, including among others the payment of premium of rent or fee, as may be imposed by LandsD.

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

On the basis of the information provided by the applicant, the traffic of the Site would be through Deep Bay Road which is a one-lane two-way carriageway. The trip generation estimated by the applicant is about 1 vehicle round trip per week and only private cars or light goods vehicles are involved. So he has no adverse comment on the application from traffic engineering point of view.

10.1.3 Comments of the Chief Highway Engineer/New Territories West, Highways Department (CHE/NTW, HyD):

- (a) The access arrangement should be commented by (Transport Department) TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Deep Bay Road.

Environment

10.1.4 Comment of the Director of Environmental Protection (DEP):

- (a) He has no adverse comment on the application.
- (b) No environmental complaint pertaining to the Site has been received in the past three years.
- (c) Should the planning application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("the COP").

Landscaping

10.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) According to the site inspections, the Site is generally soil ground with some self-seeded groundcovers and a number of refuse collection vehicles and other goods vehicles are parked within the Site. Two existing trees, *Macaranga tanarius* (血桐) and *Araucaria heterophylla* (異葉南洋杉), in good health condition are found at the northeastern corner of the Site. The Site is located in an area of rural coastal plain landscape character predominated by tree groups, woodlands and village houses with temporary structures and warehouses observed in the proximity. No approved planning application of similar nature is observed in the vicinity within the same “GB” zone. The applied use is considered incompatible to the planned landscape character of the area.
- (b) Approval of the application would set an undesirable precedent to encourage similar developments to the area. The cumulative impact of which result in a further degradation of the landscape quality of the surrounding environment and undermine the planning intention of the “GB” zone. In view of the above, she has reservation on the application from landscape planning perspective.
- (c) The applicant is advised that approval of section 16 application by the Board does not imply approval of the tree works such as pruning, transplanting and/or felling under lease. The applicant is reminded to approach relevant authority / government department(s) direct to obtain the necessary approval on tree works.
- (d) In view that the Site is not abutting any prominent public frontage, a landscape condition is considered not necessary. However, it is recommended to impose an approval condition to maintain all existing trees within the Site in good condition for the duration of the planning approval period should the application be approved by the Board.

Nature Conservation

10.1.6 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) The Site falls within the “GB” zone next to the “Coastal Protection Area” zone. While noting from aerial photos that the Site had been paved for a long period of time and used for open storage before, a watercourse runs outside the fence at the eastern boundary of the Site which connects with the portion of the Deep Bay that falls within Ramsar Site. There are also some trees close to the eastern boundary of the Site.
- (b) Should the application be approved, the applicant should be

advised to adopt good site practices to avoid causing disturbance or pollution to the watercourse, and avoid affecting the trees as far as practicable during operation.

Drainage

10.1.7 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) He has no objection in principle to the application from drainage point of view.
- (b) Should the Board consider that the application is acceptable from the planning point of view, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to submit a drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his department.

Fire Safety

10.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval.
- (c) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. Attached good practice guidelines for open storage should be adhered to (**Appendix V**).
- (d) Moreover, having considered the nature of the open storage, the following approval condition shall be added:

‘The provision of fire extinguishers(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS.’
- (e) To address this approval condition, the applicant is advised to submit a valid fire certificate (FS 251) to his department for approval.
- (f) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the Building Authority (BA), they are unauthorized building works (UBW) under the Buildings Ordinance (BO).
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- (c) Before any demolition works are to be carried out on the Site, prior approval and consent of the BA should be obtained. An Authorized Person (AP) should be appointed as the co-ordinator for any demolition works in accordance with the BO. Should the AP confirm the works fall into the Minor Works Control System (MWCS), then the applicant may proceed with the works under the MWCS. For details of the submission procedure under the MWCS, the applicant may wish to visit BD's website at www.bd.gov.hk.

District Officer's Comments

10.1.10 Comments of the District Officer/Yuen Long, Home Affairs Department (DO/YL, HAD):

His office has not received any comment from the locals on the application.

10.2 The following Government departments have no comment on the application:

- (a) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (b) Head of Geotechnical Engineering Office, CEDD (H(GEO), CEDD);
- (c) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (d) Director of Electrical and Mechanical Services (DEMS);
- (e) Director of Leisure and Cultural Services (DLCS);
- (f) Commissioner of Police (C of P); and
- (g) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

11. Public Comments Received During Statutory Publication Period

On 6.10.2020, the application was published for public inspection. During the statutory public inspection period, 6 public comments were received. Amongst the public

comments received, 1 of them (an individual) indicated no in-principle objection to the application but suggested the applicant should submit a proposal on how to address the potential environmental/ pollution problems (**Appendix VI-1**). The other 5 (including Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, Hong Kong Bird Watching Society, village representatives of Sha Kiu Tsuen and an individual (**Appendices VI-2 to VI-6**)) object to the application for the following reasons:

- (a) the proposed development is not in line with the planning intention of the “GB” zone;
- (b) the proposed development will generate adverse traffic and environmental impacts and lead to degradation of the surrounding area;
- (c) the Board should not encourage “destroy first, build later” attitude; and
- (d) approval of the application would set an undesirable precedent for similar applications within the same “GB” zone.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of vehicle parts for a period of 3 years. The Site is mainly zoned “GB” on the OZP. The planning intention of “GB” zone is to define 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. In this regard, the proposed use is not in line with the planning intention of the “GB” zone and there is no strong planning justification given in the submission for a departure of such planning intention, even on a temporary basis.

12.2 According to the TPB PG-No.10 for Application for Developments within the “GB” Zone, there is a general presumption against development within the “GB” zone. New development will only be considered in exceptional circumstances and must be justified with very strong planning grounds. For the current application, there is no strong planning justification in the submission to support the proposed use in the “GB” zone. Moreover, CTP/UD&L, PlanD has reservation on the application from landscape planning perspective as the proposed temporary open storage of vehicle parts is considered not compatible with the rural coastal plain landscape character of the area, which is predominated by tree groups, woodlands and village houses with temporary structures and suspected UDs of warehouses observed in the proximity. She also points out that approval of the application would set an undesirable precedent to encourage similar developments to the area. The cumulative impact of which would result in a further degradation of the landscape quality of the surrounding environment and undermine the planning intention of the “GB” zone. In this regard, the proposed use is not in line with the TPB PG-No. 10.

- 12.3 The Site falls within Category 4 areas under the TPB PG-No. 13F for Application for Open Storage and Port Back-up Uses. The following considerations in the Guidelines are relevant:

Category 4 areas: applications would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the applications relevant technical assessments/proposals to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. A maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merit.

- 12.4 The proposed use is not in line with TPB PG-No. 13F in that the Site falls within Category 4 area where the Site was not involved in any previous approvals for open storage use; there are no exceptional circumstances to justify for the proposed use; there is reservation from CTP/UD&L, PlanD on landscape aspect; there is local objection on the application (**Appendices VI-2 to VI-6**); and no proposals/assessments have been submitted to demonstrate that the proposal would not generate adverse landscape impact.
- 12.5 Relevant departments including C for T, CE/MN of DSD, DEP and D of FS have no adverse comment on the application on the traffic, drainage, environmental and fire safety aspects.
- 12.6 Within the same “GB” zone, there are seven similar applications (No. A/YL-LFS/200, 227, 262, 279, 285, 346 and 358) for various temporary warehouse and/or open storage uses which were all rejected between 2010 and 2020 on the grounds of not in line with the planning intention and relevant TPB Guidelines and setting undesirable precedent. As such, rejecting the current application is in line with the Committee’s previous decisions.
- 12.7 A total of 6 public comments in which 1 indicating no objection and 5 objecting to the application were received mainly on the grounds as summarized in paragraph 11 above. The planning considerations and assessments in paragraphs 12.1 to 12.6 are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 above and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department does not support the application for the following reasons:

- (a) the proposed use is not in line with the planning intention of the “Green Belt” zone, which is primarily 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. 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 is not in line with the TPB PG-No. 10 for Application for Developments within the “Green Belt” Zone in that the proposed use is incompatible with the surrounding areas and would have adverse landscape impact;
- (c) the proposed use is not in line with the TPB PG-No. 13F for Application for Open Storage and Port Back-up Uses in that there is adverse departmental comments on landscape aspect and there is local objection on the application; and
- (d) approval of the application would set an undesirable precedent for similar applications in the “GB” zone, the cumulative effect of which would result in a general degradation of the environment of the area.

13.2 Alternatively, 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 3 years until **20.11.2023**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) only private car and light goods vehicle as defined under the Road Traffic Ordinance, as proposed by the applicant, is allowed to enter/be parked at the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from the public road at any time 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 **20.5.2021**;
- (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 **20.8.2021**;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the existing trees within the Site shall be maintained in good condition at all times during the planning approval period;

- (g) the provision of fire extinguisher(s) with valid fire certificate (FS 251) 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 **1.1.2021**;
- (h) 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 **20.5.2021**;
- (i) in relation to (h) 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 **20.8.2021**;
- (j) the provision of boundary fencing of the Site within **6 months** from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by **20.5.2021**;
- (k) if any of the above planning conditions (a), (b), (e) or (f) 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;
- (l) if any of the above planning conditions (c), (d), (g), (h), (i) or (j) 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; and
- (m) upon the 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 **Appendix VII**.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse the planning permission.
- 14.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, 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.

15. Attachments

Appendix I	Application Form received on 25.9.2020
Appendix Ia	Further Information received on 23.10.2020
Appendix Ib	Further Information received on 6.11.2020
Appendix II	Relevant Extracts of Town Planning Board Guidelines for Application for Development within the Green Belt Zone (TPB PG-No. 10)
Appendix III	Relevant Extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13F)
Appendix IV	Similar Applications within the Same “GB” Zone
Appendix V	‘Good Practice for Open Storage’ issued by D of FS
Appendices VI-1 to VI-6	Public Comments
Appendix VII	Advisory Clauses
Drawing A-1	Lot Index Plan
Drawing A-2	Proposed Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**