

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/806

- Applicant** : Plus Investment Limited represented by Mr. WONG Sun-wo William
- Site** : Lots 64 S.A, 73 S.B ss.4 and 76 S.B RP in D.D. 108 and Adjoining Government Land (formerly known as Lot 77 RP in D.D. 108), Fan Kam Road, Pat Heung, Yuen Long
- Site Area** : About 2,160 m² (including about 280m² of Government Land (13%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D)” (“R(D)”) [maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Proposed Temporary Recycling Materials Collection Centre (Garment and Cloth Collection Centre with Ancillary Office) 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 recycling materials collection centre (garment and cloth collection centre with ancillary office) for a period of 3 years. According to the Notes of the OZP, ‘Recyclable Collection Centre’ is a Column 2 use under the “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, paved and fenced (**Plans A-2 to A-4**).
- 1.2 The Site involved 11 previous applications for residential development, temporary horse riding school and temporary shop and services (real estate agency) uses which were approved with conditions by the Rural and New Town Planning Committee (the Committee) between 1992 and 2018, except one application for private residential development which was rejected by the Committee in 1992. Application No. A/YL-PH/679 for proposed houses covering a majority of the Site was approved with conditions by the Committee on 12.9.2014, and permission has lapsed on 12.9.2018. Application No. A/YL-PH/784 covering the southern part of the Site for a proposed temporary

shop and services (real estate agency) was approved with conditions by the Committee on 15.6.2018 and the permission remains valid until 15.6.2021.

- 1.3 According to the applicant, 2 single-storey structures with a total floor area of about 861m² and building height ranging from 2.5m to 4.5m will be erected within the Site for recycling materials collection centre, office and portable toilet uses. 2 private car parking spaces and 3 loading/unloading spaces for light goods vehicles will be provided within the Site. No medium or heavy goods vehicles exceeding 5.5 tonnes will be allowed to enter the Site. According to the applicant, garment and clothes will be collected and transported to the Site. The recycling operation at the Site will be done manually with no machinery involved, and there would be no open storage of any kind. The Site is directly accessible from Fan Kam Road. The operation hours are from 8:00am to 6:30pm on Mondays to Saturdays, and there is no operation on Sundays and public holidays. The site layout plan, landscape proposal, drainage proposal and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-4**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with plans received on 6.3.2019 (**Appendix I**)
 - (b) Supplementary Information (SI) received on 14.3.2019 with a revised layout plan (**Appendix Ia**)
 - (c) Further information (FI) received on 10.4.2019 providing response to departmental comments (**Appendix Ib**)
 - (d) FI received on 2.7.2019 and 3.7.2019 providing response to departmental comments (**Appendix Ic**)
 - (e) FI received on 8.7.2019 providing response to departmental comments (**Appendix Id**)
- 1.5 The application was originally scheduled for consideration by the Committee on 3.5.2019. At the request of the applicant, the Committee on 3.5.2019 agreed to defer a decision so as to allow time for the applicant to submit further information to address departmental comments. Upon receipt of the FI on 2.7.2019, the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in section 9 of the application form and subsequent FI received (**Appendices I to Id**). They can be summarized as follows:

- (a) The applicant is a recycling and trading company. Garment and clothes will be recycled and packaged before being shipped to African countries. The proposed use will not create pollution or noise nuisance.

- (b) The proposed development would alleviate the burden on landfills and increase the community's environmental awareness.

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. The remaining land in the Site is Government Land (GL) (about 13%), and the Town Planning Board Guidelines on Satisfying the “Owner’s Consent / Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (the Ordinance) (TPB PG-No. 31A) is not applicable.

4. **Background**

The Site was the subject of a previous enforcement case against unauthorised development (UD) involving storage use and use for place for parking of vehicles. Enforcement Notice was issued on 28.6.2018. Subsequent site inspection revealed that the UD has been discontinued. The compliance notice was issued on 7.11.2018.

5. **Previous Applications**

- 5.1 The Site involved 11 previous applications (No. A/DPA/YL-PH/9, 11, A/YL-PH/36, 141, 337, 414, 428, 475, 502, 679 and 784) for permanent residential development, temporary horse riding school and temporary shop and services (real estate agency) uses. Except for Application No. A/DPA/YL-PH/9, all applications were approved. Details of the applications are summarized in **Appendix II** and the locations are shown on **Plan A-1b**.
- 5.2 Applications No. A/DPA/YL-PH/11, A/YL-PH/141, 337 and 414 covering the eastern part of the Site for temporary horse-riding school were approved with conditions by the Committee between 1992 and 2002 for a period of 12 months to 3 years mainly on grounds that the development could be regarded as an interim utilization of land; not incompatible with the surrounding area; would not cause adverse traffic, environmental and/or drainage impacts on the surrounding areas; no local complaint has been received; and planning approvals had previously been granted (for No. A/YL-PH/141, 337 and 414 only). The planning permissions for Applications No. A/YL-PH/337 and 414 were subsequently revoked due to non-compliance with approval conditions.
- 5.3 Application No. A/DPA/YL-PH/9 also covering the eastern part of the Site for private residential development was rejected by the Committee on 14.8.1992 on the grounds that the configuration of the Site was irregular and might impose undesirable constraint to the surrounding area; insufficient information to demonstrate the proposed development would not have adverse impact on surrounding area; and no / insufficient information on drainage, sewage, traffic and water supply aspects in the submission.
- 5.4 Applications No. A/YL-PH/36, 428, 475, 502 and 679 for proposed low-density/low-rise residential development or houses were approved with

conditions by the Committee between 1996 and 2014 mainly on grounds that they were in line with the planning intention of the “R(D)” zone; no objection from Government departments; not incompatible with the surrounding area; and approval was in line with the Committee’s previous decisions in the approval of the four preceding applications (for No. A/YL-PH/679 only). All the planning permissions have lapsed (including that for the last application No. A/YL-PH/679 which lapsed on 12.9.2018).

- 5.5 Application No. A/YL-PH/784 covering the southern part of the Site for proposed temporary shop and services (real estate agency) was approved with conditions by the Committee on 15.6.2018 for a period of 3 years mainly on grounds that approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone; not incompatible with the surrounding area; and would not generate significant adverse traffic, environmental, visual and landscape impacts. The permission is valid until 15.6.2021.

6. **Similar Application**

There is no similar application for the proposed use within the same “R(D)” zone.

7. **The Site and Its Surrounding Areas (Plans A-1a and A-2 to A-4)**

7.1 The Site is:

- (a) vacant, paved and fenced; and
- (b) directly accessible from Fan Kam Road.

7.2 The surrounding areas are rural in character mixed with a horse riding school, residential structures/ dwellings, open storage/ storage yards, workshops, an orchard and vacant/unused land. All the open storage/ storage yards and workshops are suspected unauthorised development subject to enforcement action by the Planning Authority:

- (a) to its northeast and east is a horse riding school with valid planning permission under Application No. A/YL-PH/809. To its further north is an open storage yard;
- (b) to its immediate south is a residential structure/ dwelling (about 5m away) and a piece of vacant land. To its further south are open storage yards and a workshop; and
- (c) to its west across Fan Kam Road are storage yards, workshops, residential structures/ dwellings, an orchard and unused land.

8. Planning Intention

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

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

Land Administration

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

- (a) The Site comprises GL, formerly known as Lot No. 77 RP in D.D. 108, and 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) The former Lot No. 77 RP in D.D. 108 (“the ex-lot”) was re-entered by the Government on 11.12.2018 and an instrument of re-entry was registered against Lot No. 77 RP in D.D. 108 at the Land Registry on 11.12.2018. In accordance with Section 8 of Cap. 126 Government Rights (Re-entry and Vesting Remedies) Ordinance, the former owner of the ex-lot may petition to the Chief Executive or apply to the court for relief against re-entry within six months from the registration of the memorial of re-entry, i.e. within six months from 11.12.2018.
- (c) No permission is given for occupation of the GL (about 280m² subject to verification) included in the Site. Attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (d) The Site is accessible from Fan Kam Road via GL. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the Government Land to the Site.
- (e) The Site does not fall within the Shek Kong Airfield Height Restriction Area (SKAHRA).
- (f) In view of paragraph (b) above, the applicant has to exclude the GL portion from the Site. Besides, the proposed structures, if any, should entirely be on the private lots only and the lot(s) owner(s) will need to apply to his office to permit the structures to be

erected on site. However, there is no guarantee that such application will be approved.

Traffic

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

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highway Department (CHE/NTW, HyD):

- (a) If the access arrangement is agreed by TD, the applicant should provide a run in / out at the access point at Fan Kam Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) The run-in/out of the Site is proposed to form on a HyD maintained slope feature no. 2SE-D/F72. As HyD is a works department responsible for the maintenance of the slope, the applicant is requested to seek LandsD's approval for the use and modification of the slope.
- (c) Any modification of the slope or slope boundary shall be forwarded to the slope safety division of the Geotechnical Engineering Office (GEO), Civil Engineering and Development Department (CEDD) for updating. The applicant is required to clearly delineate the slope boundary / extent on the as-built drawing.
- (d) Adequate precaution should be taken and extreme care should be exercised to avoid adversely affect the stability of the nearby slope features, cause settlement of nearby public roads and damage to any structures and installations including drainage system on slope. The applicant should be responsible for

repairing such damaged items at their own cost and to HyD's satisfaction.

- (e) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drainage.
- (f) HyD does not and will not maintain the access connecting the Site and Fan Kam Road.

Environment

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

- (a) There was no environmental complaint concerning the Site received in the past three years.
- (b) 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" issued by the Environmental Protection Department to minimize any potential environmental nuisance and observe the requirements under the Water Pollution Control Ordinance if there is any effluent discharge from the proposed use. The applicant is reminded that it is the obligation of the applicant to meet the statutory requirements under relevant pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site.

Drainage

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) The submitted drainage proposal is very preliminary and many essential information, such as cross sections of the channel, catchpit/sand trap details, general flow direction on plan, cross sections to illustrate the interface with adjacent lands, proposed connection with existing drainage facilities, checking of capacity of the proposed drainage system by simple runoff estimation, etc., are missing. As such, the drainage proposal is not considered satisfactory.
- (c) Should the application be approved, approval conditions requiring the applicant to submit a drainage proposal and to

implement and maintain the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no in principle objection 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. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap.123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Nature Conservation

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

- (a) He has no objection to the application from nature conservation point of view noting that the Site is paved and disturbed.
- (b) There is a watercourse to the east of the Site. According to the drainage plan submitted by the applicant, surface run-off from the Site will be directly discharged to this watercourse. Should the application be approved, the applicant shall be advised to adopt necessary measures to prevent polluting the watercourse during operation.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized

Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.

- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's 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) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulation respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the Building (Planning) Regulation at the building plan submission stage.

District Officer's Comments

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

He has not received any comment from the locals upon close of consultation and he has no particular comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department;
- (b) Project Manager/West, Civil Engineering and Development Department;
- (c) Commissioner of Police; and
- (d) Director of Electrical and Mechanical Services.

10. Public Comment Received During Statutory Publication Period

10.1 On 19.3.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from an individual (**Appendix III**).

10.2 The commenter objects to the application mainly on the grounds that proposed use is inappropriate as it is adjacent to an open-air recreational facility, its operations would result in poor hygiene conditions and frequent fires, and approval of such use would further delay the development of the Site to its approved residential use.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary recycling materials collection centre (garment and cloth collection centre with ancillary office) at a site zoned “R(D)”. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. Although the proposed use is not entirely in line with the planning intention of the “R(D)” zone, there is no known programme for long-term development of the Site. Approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed development involves the erection of 2 single-storey structures with a building height ranging from 2.5m to 4.5m and is not incompatible with the surrounding area which is mixed with a horse riding school, residential structures/dwellings, open storage/ storage yards, workshops, an orchard and vacant/unused land.
- 11.3 According to the applicant, the proposed temporary recycling materials collection centre mainly involves collection and packaging of recycled garment and cloth, without involving machinery and open storage uses. In view of the nature of the proposed use and that no medium or heavy goods vehicles will be involved, it is unlikely that the proposed use would generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area. Relevant departments consulted including C for T, CHE/NTW of HyD, DEP, D of FS and CE/MN of DSD have no adverse comment on the application. To address any possible environmental nuisance, relevant approval conditions restricting the operation hours, and types of vehicles are recommended in paragraph 12.2 (a) to (c) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on site will be subject to enforcement action by the Planning Authority. In addition, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CHE/NTW of HyD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (d) to (k) below.
- 11.4 The Site is subject to 11 previous planning applications for residential development, temporary horse riding school and temporary shop and services use. These applications were for different uses from the current application and all the planning permissions for residential use (No. A/YL-PH/36, 428, 475, 502 and 679) have already lapsed. There is no similar application in the same “R(D)” zone.
- 11.5 One public comment objecting to the application was received mainly on the grounds of incompatible land use and adverse environmental and fire safety impacts. In this regard, concerned departments including DEP and D of FS have no adverse comment on the application. The planning considerations and assessments and departmental comments as stated above are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comment in paragraph 10, the Planning Department has no objection to the proposed temporary recycling materials collection centre (garment and cloth collection centre with ancillary office) for a period of 3 years.
- 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 3 years until 16.8.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:30 p.m. and 8:00 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) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the submission of a run-in / out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways and Commissioner for Transport or of the Town Planning Board by 16.2.2020;
- (f) in relation to (e) above, the implementation of run-in / out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways and Commissioner for Transport or of the Town Planning Board by 16.5.2020;
- (g) the submission of 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 16.2.2020;
- (h) in relation to (g) 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 16.5.2020;
- (i) in relation to (h) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;

- (j) the submission of 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 16.2.2020;
- (k) in relation to (j) 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 16.5.2020;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (i) 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
- (m) if any of the above planning conditions (e), (f), (g), (h), (j) or (k) 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 IV**.

12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:

- (a) the proposed development is not in line with the planning intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the same "R(D)" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

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 plans received on 6.3.2019
Appendix Ia	SI received on 14.3.2019
Appendix Ib	FI received on 10.4.2019
Appendix Ic	FI received on 2.7.2019 and 3.7.2019
Appendix Id	FI received on 8.7.2019
Appendix II	Previous s.16 applications covering the application site
Appendix III	Public comment received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Landscape Plan
Drawing A-3	Drainage Plan
Drawing A-4	Vehicular Access Plan
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
AUGUST 2019**