

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/846**

- Applicant** : Gain Winner Limited represented by R-riches Property Consultants Limited
- Site** : Lots 854 (Part), 856 (Part), 857, 858 and 874 in D.D. 111 and Adjoining Government Land, Ha Che, Pat Heung, Yuen Long
- Site Area** : About 8,770 m<sup>2</sup> (including Government land of about 426m<sup>2</sup> (4.9%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”)
- Application** : Proposed Temporary Wholesale Trade (Food) for a Period of 5 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary wholesale trade (food) for a period of 5 years. According to the Notes of the OZP, ‘Wholesale Trade’ is a Column 2 use, which requires planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly used for parking of container trailer (without valid planning permission) and vehicle repair workshop (always permitted in “OS” zone).
- 1.2 The Site is the subject of 13 previous applications covering different parts of the Site (**Plan A-1b**). The last application (No. A/YL-PH/748) covering the northern part of the Site for temporary container trailer/tractor park, submitted by a different applicant, was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 23.6.2017 up to 27.6.2020.
- 1.3 According to the applicant, five 2-storeys structures (about 15m in height) will be erected for wholesale trade (food) and storage of goods with a total floor area of about 12,038m<sup>2</sup> (site coverage of about 69%). Storage of goods (excluding dangerous goods godown) is a Column 1 use and is always permitted in “OS” zone. A total of 6 loading/unloading spaces for container vehicles will be provided. The operation hours will be 9:00a.m. to 7:00p.m. Mondays to Saturdays,

and there will be no operation on Sundays and public holidays. The Site is accessible from Fan Kam Road via a local track. The site layout plan submitted by the applicant is at **Drawing A-1**.

1.4 In support of the application, the applicant has submitted the following document:

- (a) Application form with supplementary planning statement and plans received on 27.5.2020 **(Appendix I)**
- (b) Further Information (FI) received on 10.8.2020 in response to departmental comments **(Appendix Ia)**  
*[exempted from publication requirement]*

1.5 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 24.7.2020 for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now 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 the supplementary planning statement at **Appendix I**, and are briefly summarized as follows:

- (a) The proposed wholesale trade business is considered not incompatible with the surrounding land uses, which are dominated by workshop and open storage uses. Approval of the application could meet the high demand for such use in the area.
- (b) As the proposed development is only on a temporary basis, it will not frustrate the long-term planning intention of the “OS” zone. Similar application for the same use was approved by the Board in 2019 at the same “OS” zone. Therefore, approval of this application would not set an undesirable precedent.
- (c) The proposed development would not create significant adverse traffic, environmental, landscape and drainage impacts to the surrounding areas. The applicant will implement drainage, fire service installations and landscape proposal after planning approval has been granted by the Board.
- (d) The proposed development will provide packaged food including snacks and dried seafood to retailers. Purchases will either be delivered by staff or collected by visitors. Large amount of space is reserved for storage of goods, which is a Column 1 use within the “OS” zone. Goods will be stored vertically on pallet racks and movement of goods within the structures will be carried out by robotic machines. The structures require high head space to allow storage of more goods and reserve ceiling space for fire service installations.

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

The applicant is not the “current land owner” of the private land portion of the Site but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice at the Site and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government land portion, the “Owner’s Consent/Notification” Requirements are not applicable.

### 4. **Background**

The container trailer/tractor park use at the Site (except Lot 857 which is covered by valid planning permission (No. A/YL-PH/91) for open storage of vehicles for repair) would be subject to planning enforcement action.

### 5. **Previous Applications**

The Site is the subject of 13 previous applications covering different parts of the Site mainly for temporary open storage or container trailer/ tractor park uses (with/without ancillary workshop or cargo handling operation). All of them were approved with conditions by the Committee between 1997 and 2017 for a period of 1 or 3 years mainly for the reasons that the applied uses were generally in line with the planning intention of the “OS” zone; the applied uses were in line with the Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (for temporary open storage applications only); they were not incompatible with the surrounding areas; and relevant departments had no adverse comments on the applications. However, planning permissions for 3 applications were revoked between 2002 and 2004 due to non-compliance with approval conditions. Details of these applications are summarized in **Appendix II** and their locations are shown on **Plan A-1b**.

### 6. **Similar Application**

There is one similar application (No. A/YL-PH/804) within the same “OS” zone located to the immediate south of the Site for proposed temporary wholesale trade (food) for a period of 5 years. It was approved with conditions by the Committee in 2019. It involves a larger site area (21,006m<sup>2</sup>) with similar site coverage (76%) and building height (18m). The application was approved mainly on the grounds that the temporary approval would not jeopardize the long-term planning intention of the “OS” zone; the proposed use was not incompatible with the surrounding areas; and relevant departments generally had no adverse comment on the application and the environmental concern could be addressed by approval conditions. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1a**.

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

7.1 The Site is:

- (a) paved and partly fenced. Most of the Site is vacant with the northern part occupied by some temporary structures and parking of container trailers (without valid planning permission). The middle part of the Site is used for vehicle repair workshop (always permitted in "OS" zone); and
- (b) accessible from Fan Kam Road via a local track.

7.2 The surrounding area is rural in character predominated by open storage yards and vacant and unused land:

- (a) to its immediate northwest, north and northeast are unused land zoned "Green Belt";
- (b) to its east, south and west are open storage yards and vacant/unused land; and
- (c) the vacant land to the immediate south of the Site is subject to an approved application (No. A/YL-PH/804) for temporary wholesale trade (food).

**8. Planning Intention**

The planning intention of the "OS" zone is primarily for the provision of land for appropriate open storage uses and to regularize 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 Department**

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 of LandsD):

- (a) The Site comprises Government Land 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) Within the Site, some of the private lots are currently covered by a Short Term Waiver (STW) whereas the Government Land therein is covered by a Short Term Tenancy (STT):

<b>STW/STT No.</b>	<b>Lot No.</b>	<b>Permitted Use</b>
STW 2973	Lot No. 854 (Portion) & 856 (Portion) in D.D. 111	Container trailer/tractor park
STT 1917	Government Land	Container trailer/tractor park

- (c) Should planning approval be given to the planning application, the STW and STT holder(s) will need to apply to his office for modification of the STW and STT conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit structure(s) to be erected or 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. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

## **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) Should the application be approved, 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/New Territories West, Highways Department (CHE/NTW of HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided to prevent

surface water running from the Site to the nearby public roads and drains.

### **Environment**

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

- (a) The applicant shall be 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 DEP.
- (b) There is no substantiated environmental complaint concerning the Site received by DEP in the past three years.

### **Drainage**

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions requiring the submission of a drainage proposal and the implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included.

### **Building Matters**

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

- (a) As there is no record of approval granted by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.
- (c) 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.

- (d) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (e) 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) Regulations (B(P)R) respectively.
- (f) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

### **Fire Safety**

#### 9.1.7 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 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 BO (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **District Officer's Comments**

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

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

- 9.2 The following Government departments have no comment on/no objection to the application:
- (a) Project Manager/West, Civil Engineering and Development Department;
  - (b) Head of the Geotechnical Engineering Office, Civil Engineering and Development Department;
  - (c) Director of Agriculture, Fisheries and Conservation;
  - (d) Chief Engineer/Construction, Water Supplies Department;
  - (e) Director of Electrical and Mechanical Services; and
  - (f) Commissioner of Police.

## **10. Public Comment Received During the Statutory Publication Period**

On 29.5.2020, the application was published for public inspection. During the three-week statutory publication period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary wholesale trade (food) for a period of 5 years at the “OS” zone. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularize 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. Part of the Site is proposed for storage of goods which is a Column 1 use and always permitted in the “OS” zone. While the proposed wholesale trade use is not entirely in line with the planning intention of the “OS” zone, it is not incompatible with the intended uses in the zone. Approval of the application on a temporary basis for a period of 5 years would not jeopardize the long-term planning intention of the “OS” zone.
- 11.2 The proposed development is not incompatible with the surrounding area which is predominated by open storage yards and vacant/unused land.
- 11.3 Relevant departments consulted including C for T, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. The applicant will be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize any possible environmental nuisance. The technical requirements of C for T, CE/MN of DSD, and D of FS could be addressed by approval conditions (a) to (f) recommended in paragraph 12.2 below.
- 11.4 There are 13 previous applications for various temporary open storage or container trailer/tractors uses which were approved with conditions by the Committee between 1997 and 2017 as detailed in paragraph 5 above. The current application is for a different use. There is also one similar application adjacent to the Site for temporary wholesale trade approved with conditions by the Committee in 2019. The approval of the current application is hence in line with the Committee’s previous decision.



11.5 No public comment was received during the statutory publication period.

## 12. Planning Department's Views

12.1 Based on the assessments made in paragraph 11, the Planning Department has no objection to the proposed temporary wholesale trade (food) for a period of 5 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 5 years until 1.9.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period;
  - (b) 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 1.3.2021;
  - (c) in relation to (b) above, the implementation of 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 1.6.2021;
  - (d) in relation to (c) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
  - (e) 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 1.3.2021;
  - (f) in relation to (e) above, the implementation of 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 1.6.2021;
  - (g) if any of the above planning condition (a) or (d) 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
  - (h) if any of the above planning condition (b), (c), (e) or (f) 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.
- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed development is not in line with the planning intention of the “OS” zone which is primarily for the provision of land for appropriate open storage uses and to regularize the already haphazard proliferation of open storage uses. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis

Advisory Clauses

The recommended advisory clauses are attached at **Appendix IV**.

**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**

<b>Appendix I</b>	Application form received on 27.5.2020
<b>Appendix Ia</b>	FI dated 10.8.2020
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar application within the same “OS” zone on the Pat Heug OZP
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Plan A-1a</b>	Location Plan with Similar Application
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos