

RNTPC Paper No. A/YL-PH/822A  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 20.3.2020

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

**APPLICATION NO. A/YL-PH/822**

- Applicant** : Mr. Yu Kim Ming represented by Wong Sun Wo William
- Site** : Lots 91 and 98 in D.D. 108, Pat Heung, Yuen Long
- Site Area** : 3,670m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan 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 Recyclable Collection Centre (Waste Metalware Recycling 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 recyclable collection centre (waste metalware recycling centre with ancillary office) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Recyclable Collection Centre’ is a Column 2 use in “R(D)” zone which requires planning permission from the Town Planning Board (the Board). The Site is partly vacant and partly used for open storage of construction materials without valid planning permission (**Plans A-2 to A-4b**).
- 1.2 The Site involves 6 previous planning applications. The first three applications for temporary open storage were rejected by the Rural and New Town Planning Committee (the Committee) between 2005 and 2014. The last three applications covering different parts of the Site for temporary public car park and hobby farm were approved with conditions between 2016 and 2018. However, all of them were revoked due to non-compliance with approval conditions.

- 1.3 According to the applicant, the proposed development involves 2 one to two-storey structures (3m to 4.5m in height) with total floor area of about 205m<sup>2</sup> for ancillary office and toilet uses. The open area will be used for temporary storage of waste metal and steel and a metal compressor. 3 private car parking spaces and 2 medium goods vehicle parking spaces will be provided within the Site. The operation hours are between 8:00am and 6:00pm from Mondays to Saturdays. There is no operation on Sundays and public holidays. The Site is accessible via a local track branching off Fan Kam Road. The layout and vehicular access plan, drainage proposal and landscape proposal submitted by the applicant are at **Drawings A-1 to A-3**.
- 1.4 In support of the application, the applicant has submitted:
- (a) Application Form with plans received on 11.10.2019 (**Appendix I**)
  - (b) Further information (FI) received on 23.1.2020 in (**Appendix Ia**) response to departmental comments  
*[exempted from publication requirement]*
  - (c) FI received on 9.3.2020 in response to departmental (**Appendix Ib**) comments  
*[exempted from publication requirement]*
- 1.5 At the request of the applicant, the Committee on 29.11.2019 agreed to defer making a decision on the application to allow time for the applicant to address departmental comments. After the deferral request, the applicant has submitted FIs in response to departmental comments.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in section 7 of the application form and FIs in **Appendices I to Ib**. It can be summarised as follows:

Planning approval was granted at the Site for temporary car park, yet only a limited number of vehicles used the Site for parking. As such, the applicant proposed to use the Site for ‘Recyclable Collection Centre’ which is a Column 2 under the “R(D)” zone. The proposed use will not have adverse traffic impact on Fan Kam Road.

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

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consents of the 2 current land owners. Detailed information would be deposited at the meeting for Members’ inspection.

#### 4. **Background**

The Site is subject to an on-going planning enforcement action (No. E/YL-PH/824) (**Plan A-2**) against an unauthorized development (UD) involving storage use. Enforcement Notice was issued on 29.10.2019 requiring discontinuation of the UD. Subsequent site inspections revealed that the UD was discontinued. The Site would be kept under close monitoring for further action, if necessary.

#### 5. **Previous Applications**

- 5.1 The Site involves 6 previous planning applications for temporary open storage, public car park and hobby farm, all submitted by different applicants than the current application. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 Applications for proposed temporary open storage of vehicles (No. A/YL-PH/479) or construction machinery (No. A/YL-PH/537 and 681) for a period of 3 years were rejected by the Committee or the Board on review between 2005 and 2014 mainly on the grounds that the developments were not in line with the planning intention of “R(D)” zone; did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that no previous approval had been granted at the sites; the proposed developments were not compatible with the nearby residential development and the “Conservation Area” (“CA”) zone; there was insufficient information to demonstrate that the proposed developments would not generate adverse environmental, drainage, landscape and/or visual impacts on the surrounding areas; and approval of the applications would set an undesirable precedent.
- 5.3 Applications for temporary public car park (No. A/YL-PH/725 and 745) and hobby farm (No. A/YL-PH/780) for a period of 3 years were approved with conditions by the Committee between 2016 and 2018 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed developments were not incompatible with the surrounding land uses; would not cause significant environmental impacts; and there were no adverse comments from government departments. However, all applications were revoked due to non-compliance with planning conditions.

#### 6. **Similar Application**

- 6.1 There is one similar application (No. A/YL-PH/806) for proposed temporary recycling materials collection centre (garment and cloth collection centre with ancillary office) for a period of 3 years at the same “R(D)” zone. Details of the application are summarised in **Appendix III** while the location of the site is shown on **Plan A-1a**.

- 6.2 The application is located to the further north of the Site adjoining Fan Kam Road with a smaller area of about 2,160m<sup>2</sup>. It was approved with conditions by the Committee on 16.8.2019 mainly for the reasons that approval of the application on a temporary basis would not frustrate the long-term planning intention; the proposed use mainly involved collection and package of recycled garment and cloth without involving machinery and open storage and would unlikely generate significant adverse traffic and drainage impacts and environmental nuisance to the surrounding area; and there was no adverse comment from relevant departments.

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

7.1 The Site is:

- (a) currently paved, partly vacant and partly used for open storage of construction materials without valid planning permission; and
- (b) accessible via a local track branching off Fan Kam Road.

7.2 The surrounding areas are rural in character intermixed with residential dwellings/ structures, a stream, open storage/ storage yards, vehicle repair workshops, warehouse, vacant land and densely vegetated land. The open storage/ storage yards, vehicles repair workshops and warehouse are suspected unauthorised development subject to enforcement action by the Planning Authority:

- (a) to its east and northeast are vehicle repair workshops, warehouse and open storage yards;
- (b) to its northwest are residential dwellings/ structures (the nearest being less than 10m) and open storage yards. To the further northwest of the Site across Fan Kam Road is densely vegetated land zoned “CA”;
- (c) to its west are open storage/ storage yards, residential dwellings/ structures and vacant land; and
- (d) to the immediate south and southeast is a natural stream and across the stream is a large piece of densely vegetated land zoned “CA”.

8. **Planning Intention**

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.

## **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 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 Site is accessible from Fan Kam Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (c) The Site does not fall within Shek Kong Airfield Height Restriction Area (SKAHRA).
- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures 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. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by 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 (TD). 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, HyD):

- (a) His department is not/ shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to the nearby public roads and exclusive road drains.

**Environment**

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

- (a) According to the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (COP), he does not support the application as there are residential dwellings on the northwest (the nearest being less than 10m) and in the vicinity of the Site; and the proposed use involves the use of heavy vehicles, environmental nuisance is expected.
- (b) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP issued by the DEP.
- (c) There were two substantiated environmental complaints related to air and noise aspects received at the Site in the past 3 years.

**Natural Conservation**

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

- (a) The Site is vacant and paved, he has no comment on the application from nature conservation perspective.

- (b) There is a natural stream along the south-eastern boundary of the Site. Should the application be approved, the applicant shall be advised to adopt precautionary measures to avoid disturbance and pollution to the stream.

### **Drainage**

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, 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, implementation and maintenance of a drainage proposal for the development should be included in the planning permission.
- (c) His detailed comments on the submitted drainage proposal is at **Appendix V**.

### **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 (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.

### **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, the prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the Buildings Ordinance (BO).

- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BD, they are UBW under the 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 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.
- (d) 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.
- (e) 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 B(P)R 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 comments from locals upon close of consultation and he has no particular comment on the application.

9.2 The following Government department has no objection to/no comment on the application:

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



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

On 22.10.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual was received (**Appendix IV**). The comment objects to the application mainly on the grounds that the proposed use would produce toxic which should not be allowed on land planned for housing or community use; and the application should be rejected to avoid further deterioration of land.

**11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary recyclable collection centre (waste metalware recycling centre with ancillary office) for a period of 3 years at the 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. The proposed use is not in line with the planning intention of the “R(D)” zone. The applicant has not provided strong planning justifications in the submission to merit a departure from the planning intention of the “R(D)” zone, even on a temporary basis.
- 11.2 The “R(D)” zone in which the Site is located is largely sandwiched between “CA” zones covering densely vegetated land. The proposed use involving recycling of waste metalware with storage of metalware and steel and a metal compressor in the open area is considered not compatible with the surrounding areas which are rural in character intermixed with residential dwellings/ structures, densely vegetated land and the natural stream along its south-eastern boundary.
- 11.3 DEP does not support the application as there are residential dwellings on the northwest (the nearest being less than 10m) and in the vicinity of the Site; and the proposed use involves the use of heavy vehicles, environmental nuisance is expected. Other departments consulted have no adverse comment on the application.
- 11.4 The Site is subject to 6 previous applications for temporary open storage, car park and hobby farm uses covering different parts of the Site. The current application is for a different use. There is one similar application for proposed temporary recyclable materials collection centre within the same “R(D)” zone. However, it is different from the current application as its site area is smaller and mainly involves collection and package of recycled garment and cloth without involving machinery and open storage. It is also located closer to Fan Kam Road (**Plan A-1**) without passing through residential dwellings/ structures, and does not involve the use of heavy vehicles and DEP had no objection to the application.

- 11.5 One public comment objecting to the application was received during the statutory publication period mainly on the grounds as mentioned in paragraph 10 above. In this regard, the departmental comments as well as the planning assessments and considerations as stated above are relevant.

## 12. Planning Department's Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comment mentioned in paragraph 10 above, the Planning Department does not support the application for the following reasons:

- (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, and for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the proposed development is not compatible with the surrounding areas where residential structures, a natural stream and "CA" zones are found; and the applicant fails to demonstrate that the proposed development would not generate environmental nuisance to the surrounding areas.

- 12.2 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 20.3.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) no operation between 6:00p.m. and 8:00a.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 heavy goods vehicles exceeding 24 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 revised 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 20.9.2020;
- (f) in relation to (e) 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 20.12.2020;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 20.9.2020;
- (i) in relation to (h) 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 20.12.2020;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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
- (k) if any of the above planning condition (e), (f), (h) or (i) 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 V**.

### **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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

**14. Attachments**

<b>Appendix I</b>	Application form with plans received on 11.10.2019
<b>Appendix Ia</b>	FI received on 23.1.2020
<b>Appendix Ib</b>	FI received on 9.3.2020
<b>Appendix II</b>	Previous s.16 applications covering the Site
<b>Appendix III</b>	Similar application within the same “R(D)” zone on the Pat Heung OZP
<b>Appendix IV</b>	Public Comment
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan with Vehicular Access
<b>Drawing A-2</b>	Drainage Proposal
<b>Drawing A-3</b>	Landscape Proposal
<b>Plan A-1a</b>	Location Plan
<b>Plan A-1b</b>	Previous Application Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4a &amp; 4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**