

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

**APPLICATION NO. A/YL-PS/599**

- Applicant** : Yee Chi Wai Anthony
- Site** : Lots 584 and 585 in D.D. 122, Ping Hing Lane, Ping Shan, Yuen Long, New Territories
- Site Area** : About 2,956 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Shan Outline Zoning Plan (OZP) No. S/YL-PS/18
- Zoning** : “Residential (Group E) 2” (“R(E)2”) (about 98%); and  
[Restricted to a maximum plot ratio of 0.6 and a maximum building height of 5 storeys including car park]
- “Residential (Group B) 1” (“R(B)1”) (about 2%)  
[Restricted to a maximum plot ratio of 1, a maximum site coverage of 40% and a maximum building height of 5 storeys (15m) including car park]
- Application** : Proposed Temporary Open Storage of Construction Materials with Ancillary Office for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials for a period of 3 years at the application site (the Site) (**Plan A-1**). Although the proposed use is neither a Column 1 nor 2 use in the “R(E)2” and “R(B)1” zone, the Covering Notes of the OZP stipulate that temporary use or development of any land or buildings not exceeding a period of 3 years within the zone 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 currently vacant (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the site is for open storage of container office, plant rooms, converted-container toilets, guardroom and storage of construction materials to be used in future developments. Plan showing the site layout submitted by the applicant is at **Drawing A-3**.

1.3 The major development parameters of the current application are as follows:

<b>Site Area</b>	2,956 m <sup>2</sup>
<b>Total Floor Area (Non-domestic)</b>	80 m <sup>2</sup>
<b>No. of Structure</b>	6
<b>Maximum Height</b>	2.4 - 3m (1 storey)
<b>No. of Private Car Parking Spaces</b>	2 (5m x 2.5m)
<b>No. of Loading and Unloading Bay for Heavy Goods Vehicle</b>	1 (11m x 3.5m)
<b>Operation Hours</b>	8 a.m. to 6 p.m. (Mondays to Saturdays, excluding Sundays and public holidays)

1.4 The lot index plan, location plan, proposed layout plan and as-built drainage plan are at **Drawings A-1 to A-4** respectively.

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

- (a) Application form received on 18.12.2019 with lot index plan, location plan, proposed layout plan and as-built drainage plan **(Appendix I)**
- (b) Further information (FI) of 27.12.2019 providing revised page of the application form and proposed layout plan **(Appendix Ia)**  
*(accepted and exempted from publication and recounting requirement)*
- (c) FI of 14.1.2020 providing responses to Transport Department (TD)'s comment **(Appendix Ib)**  
*(accepted and exempted from publication and recounting requirement)*

1.6 In light of the special arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 7.2.2020 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 Rural and New Town Planning Committee (the Committee) at this meeting.

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

The justifications put forth by the applicant in support of the application are detailed at **Appendices I and Ib**. They can be summarised as follows:

- (a) The Site is proposed for temporary storage use for storing container office,

plant rooms, converted-container toilets, guardroom and storage of construction materials which will be used for future development. Staff will clean up existing drains to avoid adverse impact arising from clogging.

- (b) The proposed development would not induce negative traffic impact to the surroundings.

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

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

**4. Town Planning Board Guidelines**

The Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” (TPB PG-No.13E) (the Guidelines) are relevant to the application. The Site falls within Category 4 areas under the Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

**5. Background**

The Site is subject to an enforcement action against unauthorised development (UD) involving storage use (including deposit of containers). Enforcement Notice (EN) (No. E/YL-PS/699) was served on 17.9.2019 and expired on 17.11.2019 (**Plan A-1a**). Recent site inspection on 6.1.2020 revealed that UD was largely discontinued. If the requirement of EN was not complied with or without a valid planning permission, prosecution action would be taken against the notice recipients.

**6. Previous Application**

There is no previous application covering the Site.

**7. Similar Application**

There is no similar application within the same “R(E)2” and “R(B)1” zones.

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

8.1 The Site is:

- (a) currently vacant; and
- (b) accessible from a local track leading to Ping Hing Lane (**Plan A-2**).

8.2 The surrounding areas have the following characteristics:

- (a) to the immediate northeast are warehouses. To the immediate north is parking and further north is open storage of vehicles which are suspected UD;
- (b) to the immediate east and south are residential developments of Ka

On Garden and Yan Wing Mansion and a residential care home for the elderly (RCHE) named Ping Shan Home for the Aged; and

- (c) to the immediate west is temporary public vehicle park with valid planning permission under application No. A/YL-PS/589. To the further northwest are residential dwellings.

## **9. Planning Intentions**

- 9.1 The “R(E)2” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem.
- 9.2 The “R(B)1” zone is intended primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

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

- 10.1 The following Government Departments have been consulted and their views on the application and the public comments are summarised 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) The Site is accessible from Ping Hing Lane via government land (GL) and private land. His office does not provide maintenance work for 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.
  - (d) Should planning approval be given to the subject planning application, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularise any irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation 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 the LandsD acting in the capacity of the landlord or lessor at

its sole discretion and there is no guarantee that such application will be approved. If such application 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 the LandsD.

### **Traffic**

#### 10.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment to the application from traffic engineering point of view.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site.

### **Environment**

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

- (a) He does not support the application according to the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" ("COP") as there are sensitive users in the vicinity of the site (the nearest residential dwelling about 4m away), environmental nuisance is expected (**Plan A-2**).
- (b) There was no substantiated environmental complaint pertaining to the Site received in the past 3 years.
- (c) Should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest "COP".

## **Landscape**

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

- (a) He has no objection to the application from the landscape planning perspective.
- (b) Referring to the aerial photo taken in 2019, the Site lies in an area of rural fringe landscape character predominated by low-rise residential blocks, open storages, temporary structures and woodland. The proposed development is not entirely incompatible with the current surrounding landscape character.
- (c) According to his site visit on 6.1.2020, the majority of the Site is hard paved with some temporary structure and construction materials in place. Watercourse is found running through the western and southern boundaries. A number of mature *Ficus microcarpa* (細葉榕) in good condition are recorded within the site. Based on the proposed layout and planning statement, the proposed development will not involve tree felling or removal of significant vegetation. Material adverse impact on landscape resources due to the proposed use is not envisaged.
- (d) In consideration that there are mature trees within the Site serving as a landscape buffer in between the proposed development and the adjacent receivers including residences at elderly home and private housing estate, it is considered appropriate to imposed 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.

## **Drainage**

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

- (a) He has no objection in principle to the proposed application from a drainage point of view. 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 application to submit a revised drainage proposal, to implement and maintain the proposed drainage facilities to the satisfaction of his Division.
- (b) His detailed comments are in **Appendix IV**.

## **Fire Safety**

### 10.1.7 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 the satisfaction of the D of FS.
- (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 FSI to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage attached in **Appendix V** should be adhered to.
- (d) Having considered the nature of the open storage, the approval condition on the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of D of FS shall be added. To address this approval condition, the applicant is required to submit a valid fire certificate (FS251) to his Department for approval.
- (e) 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**

### 10.1.8 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, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorised building works (UBW) under the BO. An Authorised Person 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 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) 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.
- (d) 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.

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

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

His office has not received any feedback from locals.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Project Manager (West) (PM(W)), CEDD;
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (d) Director of Leisure and Cultural Services (DLCS);
- (e) Director of Electrical and Mechanical Services (DEMS);
- (f) Executive Secretary (Antiquities and Monuments), Antiquities and Monuments Office (ES (A&M), AMO); and
- (g) Commissioner of Police (C of P).

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

On 27.12.2019, the application was published for public inspection. During the first 3 weeks of the statutory public inspection periods, which ended on 17.1.2020, two public comments were received (**Appendices VI-1 and VI-2**). An objection from a private individual raised objections on grounds of environmental nuisances, adverse traffic impact and no consent was given to the applicant to access the Site via private land of the Tang's clan. Another individual objects mainly on grounds of incompatible land uses.

## **12. Planning Considerations and Assessments**

12.1 The current application is for temporary open storage of construction materials with ancillary office for a period of 3 years at the Site mainly zoned "R(E)2" (98%). The planning intention of the "R(E)2" zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial



uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem. The applied use is not in line with the planning intention of the “R(E)2” zone. No strong planning justifications in the submission for a departure from such planning intentions, even on a temporary basis.

- 12.2 The surrounding area is dominated by residential developments and brownfield operations (**Plan A-2**). Although there are warehouses, parking and storage of vehicles in the vicinity of the Site, majority are suspected UD subject to enforcement actions by the Planning Authority. The applied use, which is industrial in nature, is not compatible with the surrounding environment, in particular residential developments and a RCHE to its immediate east and south of the Site.
- 12.3 DEP does not support the application. There are domestic uses in the vicinity of the Site, and the nearest domestic use is located about 4m from the site boundary (**Plan A-2**). DEP anticipates that the operation of the temporary open storage of construction materials will cause environmental nuisance to the nearby sensitive users. In this regard, the applicant fails to demonstrate that the development would not generate adverse environmental impact on the nearby sensitive receivers.
- 12.4 According to TPB PG-No. 13E, the Site falls within Category 4 areas under the TPB PG-No. 13E. 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

The application is not in line with TPB PG-No. 13E where the Site is not the subject of any previous planning approval for open storage use and there are no exceptional circumstances in the application that justify sympathetic consideration for the applied use; there is adverse comment from DEP and local objections on the application; and the applicant fails to demonstrate that the applied use would not have adverse environmental impact on the surrounding area.

- 12.5 There is no planning approval for temporary open storage use in the same

“R(E)2” zone before. Approval of the current application, even on a temporary basis, would set an undesirable precedent for similar applications in the subject “R(E)2” zone. The cumulative effect of approving such applications would result in environmental nuisance to the surroundings.

- 12.6 There are two public comments received during the statutory publication period objecting to the application on grounds as summarised in paragraph 11 above. The planning considerations and assessments in the paragraphs 12.1 to 12.5 are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12, and having taken into account the public comment mentioned in paragraph 11, 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 “R(E)2” zone. The planning intention of the “R(E)2” zone is intended primarily for phasing out of existing industrial uses through redevelopment for residential use on application to the Board. Whilst existing industrial uses will be tolerated, new industrial developments are not permitted in order to avoid perpetuation of industrial/residential interface problem. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the applied use is incompatible with the surrounding land uses where residential developments and RCHE are located in the vicinity;
- (c) the application is not in line with the TPB PG-No. 13E in that no previous approval has been granted for the Site, and there are adverse departmental comment and local objections against the application. The applicant fails to demonstrate that the applied development would not generate adverse environmental impact; and
- (d) approval of the application, even on a temporary basis, would set an undesirable precedent for similar applications within the same “R(E)2” zone. The cumulative effect of approving such applications would result in environmental nuisance to the surroundings.

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

#### Approval conditions

- (a) no operation between 6:00 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 vehicle washing, repairing, dismantling, car beauty and other workshop activity is allowed on the Site at any time during the planning approval period;
  - (d) no vehicle is allowed to queue back to or reverse onto/from public roads at any time during the planning approval period;
  - (e) the existing trees shall be maintained in good condition during the planning approval period;
  - (f) 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 **20.9.2020**;
  - (g) in relation to (f) above, the implementation of the drainage proposal within **9** months to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **20.12.2020**;
  - (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
  - (i) the provision of fire extinguisher(s) with a valid fire certificate (FS251) 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 **1.5.2020**;
  - (j) the submission of a fire service installations proposal within **6** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.9.2020**;
  - (k) in relation to (j) above, the implementation of the fire service installations proposal within **9** months from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **20.12.2020**;
  - (l) the provision of boundary fencing within **6** months from the date of approval to the satisfaction of the Director of Planning or of the Town Planning Board by **20.9.2020**;
  - (m) if any of the above planning conditions (a), (b), (c), (d), (e) or (h) 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
  - (n) if any of the above planning conditions (f), (g), (i), (j), (k) or (l) 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 VII**.

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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**

<b>Appendix I</b>	Application form received on 18.12.2019 with lot index plan, location plan, proposed layout plan and as-built drainage plan
<b>Appendix Ia</b>	FI of 27.12.2019 providing revised page of the application form and proposed layout plan
<b>Appendix Ib</b>	FI of 14.1.2020 providing responses to the TD's comment
<b>Appendix II</b>	Extract of 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. 13E)
<b>Appendix III</b>	Previous Applications covering the Site
<b>Appendix IV</b>	Detailed Comments of Concerned Government Departments
<b>Appendix V</b>	The Good Practice Guidelines for Open Storage Sites
<b>Appendices VI-1 and VI-2</b>	Public comments received during statutory publication period
<b>Appendix VII</b>	Advisory Clauses
<b>Drawing A-1</b>	Lot Index Plan
<b>Drawing A-2</b>	Location Plan
<b>Drawing A-3</b>	Proposed Layout Plan
<b>Drawing A-4</b>	As-built Drainage Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2020**