

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-FTA/251

- Applicant** : Ying Shing (Hopewell) Engineering Company Limited represented by GD Management Limited
- Site** : Lot 356 (Part) in D.D. 87, Kong Nga Po, Sheung Shui, New Territories
- Site Area** : 1,763m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Fu Tei Au & Sha Ling Outline Zoning Plan (OZP) No. S/NE-FTA/18
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Open Storage of Construction Materials and Machineries for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials and machineries for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently vacant and partly covered with grass (**Plans A-4a and 4b**).
- 1.2 The Site is accessible from its north via a local track leading to Kong Nga Po Road (**Plan A-1**). According to the submission, the proposed use is for open storage of construction materials and machineries. One private car parking space and one medium goods vehicle loading/unloading space are proposed within the Site. Various traffic management measures, including deployment of on-site management staff and installation of traffic signs to ensure pedestrian safety, are proposed. Sufficient manoeuvring space will be provided within the Site and no queuing of vehicle on the public road will be allowed. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 The applicant also applies for filling of land of the entire site with concrete by about 0.2m in depth for site formation purpose. A drainage proposal, with provision of U-channels,

catchpits and an underground stormwater storage tank at the Site, is submitted by the applicant in support of the application. In addition, the proposed works will be at least 3m away from the top of the bank of the existing streamcourse to the south of the Site. The existing three trees at the northeastern and southwestern boundaries (**Drawing A-1**) will also be preserved with provision of 1m buffer area from the land filling works. The drainage plan submitted by the applicant is shown in **Drawing A-2**.

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

- (a) Application Form with attachments received on 16.8.2024 (Appendix I)
- (b) Further Information (FI) received on 16.9.2024* (Appendix Ia)
- (c) FI received on 23.9.2024*

** accepted and exempted from publication and recounting requirements*

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, as summarised below:

- (a) although the proposed use is not entirely in line with the planning intention of the “AGR” zone, the application is only on a temporary basis and would not frustrate the long-term planning intention the “AGR” zone;
- (b) the Site falls within Category 2 areas under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G);
- (c) the Site is located in the Boundary Commerce and Industry Zone of the Northern Metropolis and the proposed use is in line with the direction of the Northern Metropolis Action Agenda 2023;
- (d) the proposed use is considered not incompatible with the surrounding areas which are rural in character intermixed with workshops, open storage yards and woodlands; and
- (e) adequate mitigation measures are provided, i.e. submission of drainage and traffic management proposals, and no significant adverse impacts in terms of traffic, environmental, landscape and drainage are anticipated.

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

The applicant is not the “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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by obtaining consent of the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

TPB PG-No. 13G promulgated on 14.4.2023 is relevant to this application. The Site falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is subject to active planning enforcement action against unauthorized developments (UD) involving storage use (No. E/NE-FTA/206). Enforcement Notice (EN) was issued on 8.7.2024 requiring discontinuation of the UD. If the EN is not complied with, prosecution action would be considered by the Planning Authority.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Application

7.1 There is one similar application (No. A/NE-FTA/195) for temporary warehouse and open storage of containers within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). The application was rejected by the Rural and New Town Planning Committee (the Committee) in 2020 mainly for reasons of not complying with the then TPB PG-No. 13E in that the site fell within Category 3 areas and no previous planning approval was granted to the site and there were adverse departmental comments and local objections on the application; and failure to demonstrate that the development would not generate adverse traffic impact on the surrounding areas.

7.2 Details of the similar application is summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) vacant and partly covered with grass; and
- (b) accessible via a local track to its north leading to Kong Nga Po Road.

8.2 The surrounding areas are intermixed with warehouses, open storages yards, a pigsty, fallow agricultural land, vacant land and tree clusters. There is a watercourse located to the south of the Site.

9. Planning Intention

9.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to

retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

- 9.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.

10.2 The following government departments do not support or have concern on the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as greenhouses and plant nurseries, etc.; and
- (c) a watercourse is located to the south of the Site. While he has no comment on the application from nature conservation perspective, the applicant should adopt good site practice so as to avoid adverse impact to the watercourse nearby should the application be approved.

Landscape

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

- (a) according to the applicant, the 3 nos. of identified trees located at the site boundaries will not be affected and a 1m buffer area from the trees will be provided for land filling (**Appendix Ia**). Significant adverse impact on the existing landscape resources within the Site is not anticipated. Should the application be approved, the applicant is advised to seek approval from the relevant authority for any proposed works within the crown spread/tree protection zone of existing trees prior to commencement of the works; and
- (b) based on the aerial photo of 2023, the Site is located in an area of miscellaneous rural fringe landscape character comprising farmland, temporary structures, vegetated areas, tree clusters and woodland to the further west and east within the “Green Belt” zone. There is concern that

approval of the application may further alter the landscape character and degrade the landscape quality of the “AGR” zone.

11. Public Comments Received During Statutory Publication Period

On 23.8.2024, the application was published for public inspection. During the statutory public inspection period, three public comments were received (**Appendix VI**). Two comments from the Kadoorie Farm and Botanic Garden Corporation and an individual object to the application on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the Board should investigate whether the Site is the subject of an active enforcement case; the Site is not the subject of any previous planning approval; and brownfield should not be extended to this area. A Member of North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of construction materials and machineries for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. The proposed use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the proposed use on a temporary basis of three years could be tolerated.

12.2 The proposed use involves land filling of the entire site with concrete by about 0.2m in depth. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department has no objection to the application from public drainage perspective, while the Director of Environmental Protection (DEP) has no particular comment on the land filling. Should the application be approved, approval conditions requiring the applicant to submit and implement the drainage proposal as well as to reinstate the Site to an amenity area are recommended in paragraph 13.2 below.

12.3 The Site falls within Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.4 The Site is currently vacant and partly covered by grass. The proposed use is considered not entirely incompatible with the surrounding land uses intermixed with warehouses, open storages yards, a pigsty, fallow agricultural land, vacant land and tree clusters. According to the applicant, three existing trees within the Site will be preserved with provision of 1m buffer area from the land filling works. While CTP/UD&L, PlanD concerns that approval of the application may further alter the landscape character and degrade the landscape

quality of the “AGR” zone, she considers that significant adverse impact on the existing landscape resources within the Site is not anticipated.

- 12.5 The Site is accessible via a local track leading to Nga Po Road. The Commissioner for Transport has no comment on the application from traffic engineering perspective. Other relevant departments consulted, including the Director of Fire Services have no objection to or no adverse comment on the application. The applicant will also be advised to follow the revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Site’ issued by the Environmental Protection Department to minimise the possible environmental nuisance generated by the proposed use.
- 12.6 The application generally complies with the TPB PG-No. 13G in that no major adverse departmental comments have been received on the application and the concerns of the relevant government departments can be addressed through implementation of approval conditions.
- 12.7 There was a similar application for temporary warehouse and open storage of containers within the same “AGR” zone in the vicinity of the Site (**Plan A-1**), which was rejected by the Committee in 2020 mainly on the grounds of not complying with the then TPB PG-No. 13E where the site fell within Category 3 areas and there were adverse departmental comments and local objections. Since the Site now falls within Category 2 areas under the TPB PG-No. 13G as stated in paragraph 12.3 above, it is considered that the planning circumstances of the current application are different from this similar application.
- 12.8 Regarding the public comments mentioned in paragraph 11 above, the government department’s comments and the planning assessment above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 13.2 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 three years until 4.10.2027. The following conditions of approval and advisory clauses are suggested for Members’ reference:

Approval Conditions

- (a) 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 4.4.2025;
- (b) in relation to (a) 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 4.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities should be maintained at all times during the planning approval period;

- (d) the implementation of the traffic management measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 4.7.2025;
- (e) the provision of fire extinguisher(s) 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 15.11.2024;
- (f) the submission of a fire service installations proposal within 6 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.4.2025;
- (g) in relation to (f) 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 4.7.2025;
- (h) if the above planning condition (c) 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;
- (i) if any of the above planning condition (a), (b), (d), (e), (f) or (g) 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; and
- (j) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachment received on 16.8.2024
Appendix Ia	FI received on 16.9.2024
Appendix Ib	FI received on 23.9.2024
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Similar s.16 Application for Temporary Open Storage within the “AGR” zone in the vicinity of the Site in the Fu Tei Au and Sha Ling Area
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3a	Aerial Photo
Plan A-3b	Unmanned Aerial Vehicle Photo
Plans A-4a to 4-b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**