

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/55

Applicant : Smart Long Development Limited

Site : Lots 173 (Part) and 175 RP (Part) in D.D. 87, Ta Kwu Ling, New Territories

Site Area : About 1,000 m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Hung Lung Hang Outline Zoning Plan (OZP) No. S/NE-HLH/11

Zoning : “Agriculture” (“AGR”)

Application : Proposed Temporary Open Storage of Construction Machinery and Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary open storage of construction machinery and materials for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Hung Lung Hang Outline Zoning Plan (OZP) No. S/NE-HLH/11 (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years within the “AGR” zone requires planning permission from the Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the Plan. The Site is currently vacant and covered by some vegetation and trees.
- 1.2 According to the applicant, the open-air area is mainly for storage of construction machinery and materials, and circulation area. A total of six parking spaces will be provided for private vehicles, light and medium goods vehicles at the southwestern and northeastern portion of the Site (**Drawing A-1**). The Site is accessible via a local track leading from Ping Che Road, with an ingress/egress point at the northwestern boundary of the Site (**Plans A-1 and A-2**). The operation hours of the Site are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays only. There will be no operation on Sundays and public holidays. The proposed layout plan is shown in **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
- | | | |
|-----|--|------------------------|
| (a) | Application Form with attachments received on 5.5.2022 | (Appendix I) |
| (b) | Further Information (FI) received on 9.6.2022 | (Appendix Ia) |
| (c) | FI received on 27.6.2022 | (Appendix Ib) |

- 1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) of the Board agreed on 24.6.2022 to defer making a decision on the application for two months pending the preparation of FI to address the departmental comments. The applicant submitted FI on 27.6.2022 (**Appendix Ib**) and the application is re-scheduled for consideration at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form at **Appendix I**, and FIs at **Appendices Ia** and **Ib**, as summarized below:

- (a) the Site is mainly used for storage of construction materials to facilitate construction projects in the North District;
- (b) the proposed use is temporary in nature, which would not jeopardize long term planning intention of “AGR” zone;
- (c) there is open storage use in the vicinity of the Site. The proposed use is not incompatible with the adjoining land uses; and
- (d) no significant adverse traffic and environmental impacts are anticipated.

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

The applicant is one of the “current land owners”. In respect of the other “current land owner(s), the applicant 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. 31A) by obtaining consent of the current land owner(s). Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guideline

The Town Planning Board Guidelines No. 13F for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13F) promulgated on 27.3.2020 is relevant to this application. The Site falls within Category 2 area under TPB PG-No. 13F. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Previous Application

There is no previous application for the Site.

6. Similar Applications

- 6.1 There are eight similar applications (No. A/NE-HLH/33, 38, 39, 43, 44, 46, 48 and 51) involving four sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area (**Plan A-1**). Except for application No. A/NE-HLH/51, all other applications were rejected by the Committee between January

2019 and December 2020 mainly on grounds of not in compliance with the relevant Guidelines in that no previous planning approval has been granted to the sites; adverse departmental comments on the applications; no/insufficient information to demonstrate that the developments would not generate adverse environmental, traffic and landscape impacts on the surrounding areas and setting of an undesirable precedent for other similar applications within the “AGR” zone.

6.2 Application No. A/NE-HLH/51 was approved with conditions in August 2021 after the site and adjoining area were reclassified from Category 3 to Category 2 under the TPB PG-No.13F in 2020. It was considered that application generally complied with the TPB PG-No. 13F in that no major adverse departmental comments were received on the application and the concerns of the relevant government departments could be addressed through implementation of approval conditions.

6.3 Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1, A-2, and aerial photo on **Plan A-3 and site photos on **Plan A-4**)**

7.1 The Site is:

- (a) fenced off and vacant;
- (b) covered by vegetation and some trees; and
- (c) accessible from Ping Che Road via a local track.

7.2 The surrounding areas have the following characteristics:

- (a) to the immediate north and northwest is open storage use with the aforementioned planning approval; to its further northwest is a domestic structure, and
- (b) to its south, southeast and northeast are intermixed with warehouse and open storage yards and vacant land.

8. Planning Intention

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. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraph 9.2 below, other government 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.

- 9.2 The following government departments have objection to / reservation / comment on the application.

Agriculture

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

- the Site falls within the “AGR” zone and is abandoned. The agricultural activities are active in the vicinity, and agricultural infrastructures such as road access and water source are also available in the vicinity of the Site, which can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the development proposal falling within the “AGR” zone is not supported from agricultural perspective.

Environment

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

- (a) he does not support the application as there are sensitive users in the vicinity of the Site (the nearest domestic structure being about 40m away) (**Plan A-2**), and environmental nuisance is expected as the development involves use of medium/heavy goods vehicles;
- (b) there is no substantial environmental complaint pertaining to the Site received in the past 3 years; and
- (c) the applicant is advised to comply with all environmental protection/pollution ordinances, in particular Noise Control Ordinance, and to follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites and Temporary Uses”.

District Officer’s Comments

9.2.3 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) he has consulted the locals regarding the application. The incumbent North District Councilor of N16 Constituency and the Indigenous Inhabitant Representative (IIR) of Tai Po Tin object to the application;
- (b) other consultees, including the Chairman of Fung Shui Area Committee, the IIR and the Resident Representative (RR) of Lei Uk and the RR of Tai Po Tin have no comment; and
- (c) Ta Kwu Ling District Rural Committee objects to the application largely on the grounds of no vehicular access to the Site.

10. Public Comments Received During Statutory Publication Period (Appendix VI)

On 13.5.2022, the application was published for public inspection. During the statutory public inspection period, five public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Three comments from individuals object to the application mainly on grounds of adverse environmental and traffic impacts and fire risk; no previous approval granted, and not in line with the planning intention of “AGR” zone. The remaining comment from Kadoorie Farm & Botanic Garden Corporation indicates that the current application is deviated from the planning intention of “AGR” zone.

11. Planning Considerations and Assessments

11.1 The application is for a proposed temporary open storage of construction machinery and materials for a period of 3 years at the Site zoned “AGR”. The proposed development is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard 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 point of view since the Site possesses potential for agricultural rehabilitation. Nonetheless, the approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone.

11.2 The Site falls within Category 2 areas under the TPB PG-No. 13F. 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 3 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.

11.3 The Site is located in an area of rural inland plains landscape dominated by tree clusters, temporary structures, open storage, warehouse and fallow/active agricultural land. It is vacant and covered with vegetation. The proposed development is considered not entirely incompatible with the surrounding environment. In this regard, CTP/UD&L, PlanD has no objection to the application from landscape planning perspective since significant adverse impacts on the existing landscape resources arising from the proposed development is not anticipated.

11.4 C for T has no objection to the application from the traffic engineering point of view. DEP does not support the application because there are sensitive uses in the vicinity (the nearest domestic structure being 40m away), and environmental nuisance is expected as the proposed development involves use of medium/heavy goods vehicles. To address the concerns on the possible environmental nuisances or the technical requirements of the concerned government departments, relevant approval conditions including restriction of the operation hours at the Site have been recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimize the possible environmental impacts on the surrounding areas. Other concerned government departments, including CE/MN, DSD

and D of FS have no objection to or no adverse comment on the application.

- 11.5 The application generally complies with the TPB PG-No. 13F 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.
- 11.6 There are eight similar applications involving four sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area. Except for application No. A/NE-HLH/51, all other applications were rejected by the Committee between January 2019 and December 2020 mainly on the ground of not in compliance with the TPB PG-No.13E/13F. Application No. A/NE-HLH/51 was approved with conditions in August 2021 after the site and adjoining area were reclassified from Category 3 to Category 2 under the TPB PG-No.13F in 2020. It was considered that application generally complied with the TPB PG-No. 13F 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. The location of the Site was also reclassified from Category 3 to Category 2 in 2020. As such, the planning circumstances of the current application are similar to the approved application.
- 11.7 Regarding the local comments conveyed by DO (N) of HAD and public comments on the application as detailed in paragraphs 9.2.3 and 10 above, government departments’ comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account local comments conveyed by DO (N) of HAD and public comments as detailed in paragraphs 9.2.3 and 10 respectively, the Planning Department considers that the temporary development could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 26.8.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation from 6:00 p.m. to 9:00 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) 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 26.2.2023;
- (d) in relation to (c) above, the provision of drainage facilities 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 26.5.2023;

- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) 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 7.10.2022;
- (g) the submission of proposals for water supplies for fire-fighting and fire service installations 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 26.2.2023;
- (h) in relation to (g) above, the provision of water supplies for fire-fighting and fire service installations 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 26.5.2023;
- (i) if any of the above planning conditions (a), (b) or (e) 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;
- (j) if any of the above planning conditions (c), (d), (f), (g) or (h) 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
- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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

- the development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good 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. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.

13. Decision Sought

13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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 applicants.

14. Attachments

Appendix I	Application Form with Attachments received on 5.5.2022
Appendix Ia	FI received on 9.6.2022
Appendix Ib	FI received on 27.6.2022
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13F
Appendix III	Similar s.16 Applications within the “AGR” zone in the vicinity of the Site in the Hung Lung Hang area in the Past 5 Years
Appendix IV	Government Departments’ General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
PlanA-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2022**