

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

**APPLICATION NO. A/NE-HLH/61**

**Applicant** : Chow Keung Transportation Company Limited

**Site** : Lot 396 in D.D. 87, Hung Lung Hang, New Territories

**Site Area** : About 1,886m<sup>2</sup>

**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 with Ancillary Parking of Vehicles for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary open storage with ancillary parking of vehicles for a period of three 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 covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is formed and currently vacant.
- 1.2 The Site is accessible from Kong Nga Po Road via a local track with an ingress/egress point in the northwest (**Plans A-1 and A-2**). According to the applicant, the proposed development comprises nine one-storey temporary structures (building height of not more than 2.9m) with a total floor area of about 156.4m<sup>2</sup> for office, storage for fabrics materials and transhipment goods and washroom uses along the northern, western and south eastern periphery of the Site. Four private car parking spaces and seven medium goods vehicle parking spaces are provided in the northeastern and southern parts of the Site (**Drawing A-1**). The operation hours of the development is from 8:00 a.m. to 6:00 p.m. daily including Sundays and public holidays.
- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 7.3.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 22.6.2023<sup>^</sup> (**Appendix Ia**)
  - (c) FI received on 27.9.2023<sup>^</sup> (**Appendix Ib**)
- <sup>^</sup> *accepted and exempted from the publication and recounting requirements*

- 1.4 On 5.5.2023 and 11.8.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months.

## **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 summarized below:

- (a) the applicant claims himself to be one of those affected brownfield operators from Kwu Tung North New Development Area (KTN NDA) and now finds the Site for operating his affected business; and
- (b) the Site has been formed and has not been used for agricultural use since 2002.

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

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

## **4. Town Planning Board Guidelines**

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

## **5. Background**

The Site is subject to planning enforcement actions (No. E/NE-HLH/140 and E/NE-HLH/144) against unauthorized developments (UDs) involving storage use (including deposit of containers) and use for place for parking of vehicles (**Plan A-2**). As the UD had not been discontinued upon the expiry of the EN, the notice recipient was prosecuted and convicted on 16.8.2023. The total fine of the case was \$91,700. The latest site inspection revealed that the Site is largely vacant (**Plans A-4a** and **A-4b**) and is currently under close monitoring by the Planning Authority.

## **6. Previous Applications**

- 6.1 The Site is the subject of two previous applications (No. A/NE-HLH/36 and 58) submitted by the same applicant as the current application for different uses (i.e. proposed temporary logistics centre and temporary private vehicle park (medium goods vehicles only) respectively).
- 6.2 Application No. A/NE-HLH/36 was rejected by the Committee on 6.9.2019 mainly on the grounds that the proposed development was not in line with the planning intention of “AGR” zone; the application did not comply with the previous version TPB PG-No. 13E in that the Site was then in Category 3 area and there was no previous approval granted for the Site; adverse departmental and public comments on the application; and the

approval of the application would set an undesirable precedent for similar applications within the “AGR” zone.

- 6.3 Another rejected application No. A/NE-HLH/58 for temporary private vehicle park (medium goods vehicles only) is considered not relevant to the subject application for proposed temporary open storage use.
- 6.4 Details of the previous applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

## **7. Similar Applications**

- 7.1 There are 13 similar applications (No. A/NE-HLH/33, 38, 39, 43, 44, 46, 48, 51, 54, 55, 59, 60 and 64) involving eight sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area over the past five years (**Plan A-1**). Seven of them were rejected by the Committee between January 2019 and December 2020 mainly on the grounds of not complying with the previous versions TPB PG-No. 13E/13F in that no previous planning approvals were granted to the sites concerned; adverse departmental comments on the applications; insufficient information to demonstrate that the developments would not generate adverse environmental, traffic and landscape impacts on the surrounding areas; and setting of undesirable precedent for other similar applications within the “AGR” zone.
- 7.2 The remaining six applications (No. A/NE-HLH/51, 54, 55, 59, 60 and 64) were approved with conditions between August 2021 and September 2023 after the relevant sites were reclassified from Category 3 to Category 2 under TPB PG-No.13F/13G. The applications generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments were received on the applications; and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.3 Details of the similar applications are summarized at **Appendix IV** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
  - (a) flat, vacant and hard paved; and
  - (b) accessible from Kong Nga Po Road via a local track.
- 8.2 The surrounding areas are of miscellaneous rural fringe landscape character comprising open storages, warehouses, temporary structures, fallow agricultural land, vacant land, as well as clusters of tree groups and woodland within the neighbouring “Green Belt” (“GB”) zone.

## **9. 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.

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

- 10.1 Apart from the government departments as set out in paragraphs 10.2 and 10.3 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 are provided at **Appendices V** and **VI** respectively.
- 10.2 Secretary for Development (SDEV) supports the application on the following considerations:
- (a) the application is submitted by an operator whose operation will be displaced by the government-led Kwu Tung North New Development Area (KTN NDA) project. According to the applicant, his business mainly involves storage and logistics operation. Having learned that his operation would be affected, he has endeavoured to identify suitable sites for re-establishment;
  - (b) according to the concerned departments, the proposed use on a temporary basis will not cause adverse impacts on environment, traffic, water supply, drainage, slope safety, landscape and visual aspects; and
  - (c) the land freed up by the displaced operation will, together with other cleared land, be redeveloped into the KTN NDA capable of providing about 49,900 housing units by phases. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, this office supports the application.
- 10.3 The following government departments do not support/have comments on the application:

### **Agriculture and Nature Conservation**

#### **10.3.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):**

- the Site falls within the “AGR” zone and is vacant. The 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 open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the proposed use is not supported from agricultural perspective.

### **Land Administration**

#### **10.3.2 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):**

- there are unauthorized structures erected on the Site. The lot owner should

immediately rectify the lease breaches and his office reserves the right to take necessary lease enforcement action against the lease breaches without separate notice; and

- the Site comprises Old Schedule Agricultural Lot 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. No right of access via Government Land (GL) is granted to the Site.

10.4 District Officer (North), Home Affairs Department (DO(N), HAD) has relayed the following local views on the application:

- (a) he has consulted the locals regarding the application. The incumbent North District Councilor of N16 Constituency, the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Chow Tin Tsuen and IIR of Tai Po Tin object to the application. The IIR and RR of San Uk Ling object to the application as there are already many warehouses in the area, causing adverse traffic and environmental impact on the surroundings.
- (b) the Chairman of Fung Shui Area Committee, the Chairman of Ta Kwu Ling 沙嶺村居民福利會, another IIR of Chow Tin Tsuen, the IIR of Sheung Shan Kai Wat, the RR of Tai Po Tin, the IIR and the RR of Lei Uk have no comment; and
- (c) the Ta Kwu Ling District Rural Committee and the RR of Sheung Shan Kai Wat have not replied.

## **11. Public Comments Received During Statutory Publication Period (Appendix VII)**

On 14.3.2023, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. The remaining two comments from an individual and Kadoorie Farm and Botanic Garden Corporation object to the application mainly on the grounds that the proposed use is not in line with the planning intention of “AGR” zone and the proposed use may create adverse traffic impacts to the surroundings.

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

- 12.1 The application is for a proposed temporary open storage with ancillary parking of vehicles for a period of three years at the Site zoned “AGR”. The proposed use is not in line with the planning intention of the “AGR” zone as detailed in paragraph 9. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessment below, the proposed development on a temporary basis of three years could be tolerated.
- 12.2 According to the applicant, the application is to facilitate the relocation of his affected business related to storage and logistic operation due to KTN NDA. The applicant has made effort in identifying a suitable site for relocation. While the applicant has

previously operated his affected business at the Site without valid planning permission and subject to enforcement action, the Site is now vacant as detailed in paragraph 5 and shown on **Plan 4**. From the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, SDEV supports the application.

- 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 located in an area of miscellaneous rural fringe landscape character comprising open storages, warehouses, temporary structures, fallow agricultural land, vacant land, as well as clusters of tree groups and woodland within the neighbouring “Green Belt” (“GB”) zone. The proposed use is considered not entirely incompatible with the surrounding environment. In this regard, Chief Town Planner/Urban Design & Landscape, Planning Department, has no objection to the application from the landscape planning perspective since significant adverse impacts on the landscape character and the existing landscape resources arising from the proposed use is not anticipated.
- 12.5 Having reviewed the FI, the Commissioner for Transport has no comment on the application from the traffic engineering point of view. Although DLO/N of LandsD has concerns on unauthorized structures erected on the Site, which are subject to lease enforcement actions, latest site inspection revealed that the Site is largely vacant and the applicant will also be advised to liaise with LandsD to rectify/regularize the lease breaches. Other concerned government departments, including Chief Highway Engineer/New Territories East of Highways Department, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application.
- 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 were six similar approved applications (No. A/NE-HLH/51, 54, 55, 59, 60 and 64) between August 2021 and September 2023 after the area has been reclassified from Category 3 to Category 2 under the TPB PG-No.13F/13G and the applications generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments have been received on the applications and the concerns of the relevant government departments can be addressed through implementation of approval conditions. The planning circumstances of the current application are similar to the approved applications.
- 12.8 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 10.4 and 11 respectively, government

departments' comments and planning assessments above are relevant.

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

- 13.1 Based on the assessments made in paragraph 12 and having taken into account local comments conveyed by DO (N) of HAD and public comments as detailed in paragraphs 10.4 and 11 respectively, the Planning Department considers that the proposed temporary development 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 24.11.2026. 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 8:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) 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 24.5.2024;
- (c) in relation to (b) 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 24.8.2024;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (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 5.1.2024;
- (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 24.5.2024;
- (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 24.8.2024;
- (h) if any of the above planning conditions (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
- (i) if any of the above planning conditions (b), (c), (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.

### Advisory Clauses

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

13.3 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 "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.

### **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**

<b>Appendix I</b>	Application Form with Attachments received on 7.3.2023
<b>Appendix Ia</b>	FI received on 22.6.2023
<b>Appendix Ib</b>	FI received on 27.9.2023
<b>Appendix II</b>	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar s.16 Applications for Temporary Open Storage within the "AGR" zone in the vicinity of the Site in the Hung Lung Hang Area
<b>Appendix V</b>	Government Departments' General Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Appendix VII</b>	Public Comments
<b>Drawing A-1</b>	Proposed Layout 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