

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

**APPLICATION NO. A/NE-HLH/64**

**Applicant** : Ying Shing (Hopewell) Engineering Company Limited

**Site** : Lot 373 in D.D. 87, Hung Lung Hang, New Territories

**Site Area** : About 4,030m<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 of Construction Machinery and Materials 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 of construction machinery and materials 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 vacant.
- 1.2 The Site is accessible from Kong Nga Po Road via a local track with an ingress/egress point in the north (**Plans A-1 and A-2**). According to the applicant, the Site will be used for open storage with one medium goods vehicle parking space in the northeastern part of the Site. The operation hours are 9:00 a.m. to 5:00 p.m. from Mondays to Fridays, and there will be no operation on Saturdays, Sundays and public holidays. The layout plan, vehicular access plan and drainage plan submitted by the applicant are shown in **Drawings A-1 to A-3**.
- 1.3 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on 2.6.2023 (**Appendix I**)
  - (b) Further Information (FI) received on 7.8.2023 (**Appendix Ia**)
- 1.4 On 28.7.2023, 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 to allow more time for the applicant to address departmental comments.

## **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 proposed use is not incompatible with the surrounding land uses which are predominantly occupied by open storage yards and warehouses;
- (b) the Site is already formed with a two-way vehicular access which connects to Kong Nga Po Road and Ping Che Road (**Drawing A-2**). Only one medium goods vehicle would access the Site with four visits per week on average, which would not create additional traffic burdens to the existing roads;
- (c) the proposed use is temporary in nature and would not require any filling of land, vegetation clearance or excavation of land as the Site has been formed;
- (d) no significant adverse traffic, environmental, drainage, air ventilation, visual and landscape impacts are anticipated; and
- (e) public sewerage connection is available in the area and the applicant would provide drainage and sewerage connections properly at his own expense.

## **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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consent of the “current land owner”. 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. Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/NE-HLH/33 and 46) submitted by different applicants for proposed temporary open storage of construction machineries and ancillary office for a period of three years before the reclassification from Category 3 to Category 2 under TPB PG-No. 13G. Both applications were rejected by the Committee on 4.1.2019 and 4.9.2020 respectively mainly on the grounds that the proposed developments were not in line with the planning intention of “AGR” zone; the application did not comply with the then Town Planning Board Guidelines for 'Application for Open Storage and Port Back-up Uses' (i.e. TPB PG-No. 13E and 13F) in that there was no previous approval granted for the Site; there were adverse departmental and public comments on the applications; the applicant has failed to demonstrate that the development would not cause adverse traffic and environmental

impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent for other similar applications in the area.

- 5.2 Details of the previous applications are summarised at **Appendix III** and their locations are shown in **Plan A-1**.

## **6. Similar Applications**

- 6.1 There are 13 similar applications (No. A/NE-HLH/20, 21, 32, 38, 39, 43, 44, 48, 51, 54, 55, 59 and 60) involving nine 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). Eight of them were rejected by the Committee between September 2013 and December 2020 mainly for reasons 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.
- 6.2 The remaining five applications (No. A/NE-HLH/51, 54, 55, 59 and 60) were approved with conditions between August 2021 and June 2023 after the relevant sites were reclassified from Category 3 to Category 2 under TPB PG-No. 13F. 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.
- 6.3 Details of the similar applications are summarized at **Appendix IV** and their locations are shown in **Plan A-1**.

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

- 7.1 The Site is:
- (a) formed and vacant; and
  - (b) accessible from Kong Nga Po Road via a local track.
- 7.2 The surrounding areas are of rural landscape character comprising open storages, warehouses, fallow agricultural land, temporary structures, vacant land, as well as clusters of tree groups and woodland within the “Green Belt” (“GB”) zone to the south of the Site. Domestic structures can be found in the vicinity, with the nearest located to the southeast of the Site.

## **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 are provided at Appendices V and VI respectively.

9.2 The following government departments do not support the application:

### **Agriculture and Nature Conservation**

9.2.1 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.

### **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 50m away) (**Plan A-2**), and environmental nuisance is expected as the proposed development involves use of medium goods vehicles;
- (b) there is no substantial environmental complaint pertaining to the Site received in the past three 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”.

9.3 The following government department has relayed the following local views on the application:

### **District Officer’s Comments**

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

- he has consulted the locals regarding the application. The Chairman of Fung Shui Area Committee and the incumbent North District Councilor of N16 Constituency have no comment. The Ta Kwu Ling District Rural Committee does not reply.

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

On 9.6.2023, the application was published for public inspection. During the statutory public inspection period, three public comments were received. While the Chairman of Sheung Shui District Rural Committee indicates no comment on the application, Kadoorie Farm and Botanic Garden and one individual object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the proposed development does not comply with the TPB-PG No. 13G; and the applicant fails to demonstrate that the proposed development would not generate adverse traffic and environmental impacts on the surrounding areas.

## **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 three years at the Site zoned “AGR”. The proposed use 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 as the Site possesses potential for agricultural rehabilitation. Nonetheless, 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. 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.

11.3 The Site is located in an area of rural landscape character comprising open storages, warehouses, fallow agricultural land, temporary structures, vacant land, as well as clusters of tree groups and woodland within the “Green Belt” (“GB”) zone to the south of the Site. 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 landscape planning perspective since significant adverse impacts on the landscape character and the existing landscape resources arising from the proposed development is not anticipated.

11.4 EPD has expressed concerns on the application as the proposed development involves use of medium goods vehicle and environmental nuisance on the sensitive users in the vicinity of the Site (the nearest domestic structure being about 50m away) (**Plan A-2**) is expected. To address these concerns, relevant approval conditions including restriction on the operation hours at the Site are 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.

- 11.5 The Commissioner for Transport (C for T) has no comment on the application from the traffic engineering point of view. Other concerned government departments, including District Lands Officer/North, Chief Highway Engineer/New Territories East of Highways Department and Director of Fire Services have no objection to or no adverse comment on the application.
- 11.6 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.
- 11.7 The Site is the subject of two previous applications (No. A/NE-HLH/33 and 46) for proposed temporary open storage of construction machineries and ancillary office, which were rejected by the Committee in 2019 and 2020 respectively mainly on the grounds that the application did not comply with the previous versions TPB PG-No.13E/13F as detailed in paragraph 5.1. For the current application, it generally complies with the latest TPB PG-No. 13G as detailed in paragraph 11.6 above after the Site and its adjoining area was reclassified from Category 3 to Category 2 under the TPB PG-No. 13G in April 2023.
- 11.8 There are 13 similar applications involving nine sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area. Eight applications were rejected by the Committee between September 2013 and December 2020 mainly on the grounds of not complying with the previous versions TPB PG-No.13E/13F where the sites fall within Category 3 areas. The remaining five applications (No. A/NE-HLH/51, 54, 55, 59 and 60) were approved by the Committee between August 2021 and June 2023 (i.e. after the sites were reclassified from Category 3 to Category 2 under the previous version TPB PG-No.13F in 2020) mainly on consideration that the applications generally complied with the TPB PG-No. 13F/13G in that no major adverse departmental comments had been received on the applications and the concerns of the relevant government departments could be addressed through implementation of approval conditions. The planning circumstances of the current application are similar to the approved applications.
- 11.9 Regarding the public comments on the application as detailed in paragraph 10, 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 public comments as detailed in paragraph 10, 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 22.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

### **Approval Conditions**

- (a) no operation from 5:00 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 Saturdays, 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 22.3.2024;
- (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 22.6.2024;
- (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 3.11.2023;
- (g) 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 22.3.2024;
- (h) in relation to (g) 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 22.6.2024;
- (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 VI**.

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 applicant.

### **14. Attachments**

<b>Appendix I</b>	Application Form with Attachments received on 2.6.2023
<b>Appendix Ia</b>	FI received on 7.8.2023
<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 “Agriculture” 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>Drawing A-2</b>	Proposed Vehicular Access Plan
<b>Drawing A-3</b>	Proposed 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  
SEPTEMBER 2023**