

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/66

- Applicants** : Rich Loy Group Limited and Rich Warehouse Limited represented by Metro Planning & Development Company Limited
- Site** : Lot 160 (Part) in D.D. 87, Hung Lung Hang, New Territories
- Site Area** : About 1,070m²
- 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 applicants 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 OZP (**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 currently vacant and mostly covered with gravels.
- 1.2 The Site is accessible from Ping Che Road via a local track with an ingress/egress point in the southwest (**Plan A-1**). According to the applicants, the Site will be used for open storage of construction machinery and materials (e.g. excavator, electric generator, barricades, pipes and metal rods) with one medium goods vehicle parking space proposed in the southern part of the Site as shown on the proposed layout plan (**Drawing A-1**). The operation hours are from 9:00 a.m. to 6:00 p.m., Mondays to Saturdays, and there will be no operation on Sundays and public holidays.
- 1.3 In support of the application, the applicants have submitted the following documents:
- (a) Application Form with attachments received on 31.8.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 30.10.2023[^] (**Appendix Ia**)
 - (c) FI received on 6.12.2023[^] (**Appendix Ib**)
- [^] *accepted and exempted from the publication and recounting requirements*

- 1.4 On 27.10.2023, the Rural and New Town Planning Committee (the Committee) agreed to the applicants' request to defer making a decision on the application for two months.

2. Justifications from the Applicants

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

- (a) the Site falls within Category 2 in 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). The proposed development is compatible with the surrounding environment, which are predominantly occupied by open storage yards;
- (b) there is insufficient supply to meet open storage and warehouse demand in the Ta Kwu Ling/Hung Lung Hang areas;
- (c) adequate circulation path is proposed near the ingress/egress and no heavy goods vehicle and container tractor/trailer will be allowed to access or park within the Site. There will be minimal traffic impact; and
- (d) as no workshop activity will be carried out within the Site, the proposed development would not induce insignificant noise and environmental impacts on the surrounding area.

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

The applicants are the sole “current land owner” of the private land covered by the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The 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 an active planning enforcement actions (No. E/NE-HLH/149) against unauthorized developments (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice (EN) was issued on 28.8.2023 requiring discontinuation of the UD. Recent site inspection after the EN expiry revealed that the Site was largely vacant. The Site is currently under close monitoring by the Planning Authority.

6. Previous Application

The Site is not the subject of any previous applications.

7. Similar Applications

- 7.1 There are 14 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 over the past five years (**Plan A-1**). Seven of them (No. A/NE-HLH/33, 38, 39, 43, 44, 46 and 48) were rejected by the Committee between January 2019 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.
- 7.2 The remaining 7 applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61 and 64) were approved with conditions between August 2021 and November 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.
- 7.3 Details of the similar applications are summarized at **Appendix III** and the locations are shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) vacant and mostly covered with gravels; and
 - (b) accessible from Ping Che Road via local track.
- 8.2 The Site is located in an area of rural inland plain landscape character surrounded by open storages, warehouses, temporary structures, tree clusters, active/fallow farmlands and vegetated areas.

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 paragraph 10.2 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 at **Appendices IV** and **V** respectively.
- 10.2 The following government departments do not support the application:

Agriculture and Nature Conservation

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

- The Site falls within the “AGR” zone and is generally occupied with structures. 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 development is not supported from an agricultural perspective. Nevertheless, he has no comment on the planning application from nature conservation perspective.

Environment

10.2.2 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 5m away) (**Plan 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 applicants are 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”.

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

- he has consulted the locals regarding the application. The incumbent North District Councilor of N16 Constituency and the Indigenous Inhabitant Representative (IIR) of Lei Uk object the application mainly on the grounds that the Site falls within “AGR” zone and the proposed development would induce adverse traffic impacts as it would involve heavy vehicles accessing the Site. Ta Kwu Ling District Rural Committee, the Chairman of Fung Shui Area Committee, two IIRs and Resident Representative (RR) of Chow Tin Tsuen, the RR of Lei Uk, the IIR and RR of Tai Po Tin have not replied to his office.

11. Public Comment Received During Statutory Publication Period (Appendix VI)

On 8.9.2023, 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 Kadoorie Farm and Botanic Garden and an 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 and there is no strong justification in submission to justify a departure from the planning application of the “AGR” zone.

12. Planning Considerations and Assessments

- 12.1 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 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 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.
- 12.3 The Site is located in an area of rural landscape character surrounded by open storages, warehouses, temporary structures, tree clusters, active/fallow farmlands and vegetated area. 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 existing landscape resources arising from the proposed development are not anticipated.
- 12.4 EPD has expressed concerns on the application as the proposed development involves the use of medium goods vehicles and environmental nuisance on the sensitive users in the vicinity of the Site (the nearest domestic structure being about 5m away) (**Plan 2**) is expected. To address the concerns, relevant approval conditions including restriction on the operation hours at the Site have been recommended in paragraph 13.2 below. Should the application be approved, the applicants 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.
- 12.5 The Commissioner for Transport has no comment on the application from the traffic engineering point of view. Other concerned government departments, including District Lands Officer/North of Lands Department, 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.
- 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 are seven similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61 and 64) approved between August 2021 and November 2023 after the application sites were reclassified from Category 3 to Category 2 under the TPB PG-No.13F/13G and they generally complied with TPB PG-No. 13F/13G in that no major adverse departmental

comments have been received on the applications and 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 cases.

- 12.8 Regarding the local comments conveyed by DO(N) of HAD and public comments on the application as detailed in paragraphs 10.3 and 11, government departments' comments and planning assessment above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 11 and having taken into account the local comments conveyed by DO(N) of HAD and public comments as detailed in paragraphs 9.3 and 10 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 22.12.2026. 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 9:00 a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicants, 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 22.6.2024;
- (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 22.9.2024;
- (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 2.2.2024;
- (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 22.6.2024;
- (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 22.9.2024;

- (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 V**.

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 applicants.

15. Attachments

Appendix I	Application Form with Attachments received on 31.8.2023
Appendix Ia	FI received on 30.10.2023
Appendix Ib	FI received on 6.12.2023
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Similar s.16 Applications for Temporary Open Storage within the "AGR" zone in the vicinity of the Site in the Hung Lung Hang Area
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

Plan A-4

Site Photos

**PLANNING DEPARTMENT
DECEMBER 2023**