

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

**APPLICATION NO. A/NE-HLH/70**

**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** : 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 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 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 used for open storage yard without valid planning permission.
- 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 is used for open storage of construction machinery and materials with one loading/unloading space for medium goods vehicle in the northeastern part of the Site. The operation hours are from 9:00 a.m. to 5:00 p.m., Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The layout plan is shown in **Drawing A-1**.
- 1.3 The Site is the subject of a previously approved application No. A/NE-HLH/64 submitted by the same applicant for the same use with the same development parameters as the current application. The permission was revoked on 3.11.2023 due to non-compliance with approval condition. Details of previous application is set out in paragraph 6.2 below.
- 1.4 In support of the application, the applicant has submitted the following documents:
  - (a) Application Form with attachments received on (**Appendix I**) 27.12.2023
  - (b) Supplementary Information received on 28.12.2023 (**Appendix Ia**)

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|-----|---|---------------|
| (c) | Further Information (FI) received on 2.2.2024 ^ | (Appendix Ib) |
| (d) | FI received on 1.3.2024^                        | (Appendix Ic) |
| (e) | FI received on 2.4.2024^                        | (Appendix Id) |
| (f) | FI received on 5.4.2024^                        | (Appendix Ie) |
- ^ accepted and exempted from publication

1.5 On 16.2.2024, 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 applied 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 an access which connects to Kong Nga Po Road and Ping Che Road respectively (**Plan A-2**). Only one medium goods vehicle would access the Site with four visits per week on average, which would not create additional traffic burden on the existing roads;
- (c) it 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;
- (e) public sewer is available in the area and the applicant would provide drainage and sewerage connections properly at his own expense; and
- (f) the previously approved application No. A/NE-HLH/64 was revoked due to the non-compliance with condition on the provision of fire extinguishers. The applicant has already purchased 14 fire extinguishers from qualified contractors and placed around the Site (**Appendix Ib**).

## 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. 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**

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 enforcement action (No. E/NE-HLH/155) against an unauthorized development (UD) involving storage use (including deposit of containers) (**Plan A-2**). Enforcement Notice (EN) was issued on 14.2.2024 requiring discontinuation of the UD. If EN is not complied with, prosecution action may be instigated.

## 6. **Previous Applications**

- 6.1 The Site is the subject of three previous applications (No. A/NE-HLH/33, 46 and 64). Applications No. A/NE-HLH/33 and 46 were submitted by different applicants for proposed temporary open storage of construction machineries and ancillary office for a period of three years before the Site was reclassified 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 development was not in line with the planning intention of “AGR” zone; the application did not comply with the then TPB PG-No. 13E/13F in that there was no previous approval granted for the Site; adverse departmental and public comments on the applications; failure to demonstrate that the development would not cause adverse traffic and environmental impacts on the surrounding areas; and approval of the applications would set an undesirable precedent for other similar applications in the area.
- 6.2 Application No. A/NE-HLH/64 submitted by the same applicant for the same use and development parameters as the current application was approved by the Committee on 22.9.2023 mainly on considerations that the use generally complied with TPB PG-No. 13G 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 the relevant approval conditions. The previous application was revoked on 3.11.2023 due to non-compliance with approval condition in relation to the provision of fire extinguisher(s).
- 6.3 Details of the previous applications are summarized at **Appendix III** and their locations are shown in **Plan A-1**.

## 7. **Similar Applications**

- 7.1 There are 12 similar applications (No. A/NE-HLH/38, 39, 43, 44, 48, 51, 54, 55, 59, 60, 61 and 66) 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 within the last five years (**Plan A-1**). Five of them were rejected by the Committee between January and December 2020 mainly on the grounds that the applications did not comply with the previous versions TPB PG-No. 13E/13F in that no previous planning approvals were granted to the sites concerned; adverse departmental comments; 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.
- 7.2 The remaining seven applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61 and 66) were approved with conditions between August 2021 and December 2023 after the relevant sites were reclassified from Category 3 to Category 2 under TPB PG-No. 13F/13G mainly on considerations that they generally complied with TPB PG-No. 13F/13G in that

no major adverse departmental comments were received; and 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 their locations are shown in **Plan A-1**.

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

### **8.1 The Site is:**

- (a) formed and used for open storage yard without valid planning permission; and
- (b) accessible from Kong Nga Po Road via a local track.

- 8.2 The surrounding areas are of rural landscape character comprising open storages, warehouses, 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.

## **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 provided at **Appendices V and VI** 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 by structures. 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 subject site possesses potential for agricultural rehabilitation, the proposed development is not supported from an agricultural 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 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”.

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

On 5.1.2024, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received. A member of the North District Council indicates no comment on the application. One individual expresses concerns on fire safety and objects to the application mainly on the grounds that the applicant fails to demonstrate the applied use would not generate adverse traffic and environmental impacts on the surrounding areas.

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

12.1 The application is for a temporary open storage of construction machinery and materials for a period of three years at the Site zoned “AGR”. The applied use is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation as detailed in paragraph 9. Nonetheless, taking into account the planning assessment below, the applied use for a period of three years in a temporary basis 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 comprising open storages, warehouses, temporary structures, vacant land, as well as clusters of tree groups and woodland within the “GB” zone to the south of the Site. The applied 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 applied use are not anticipated.

- 12.4 DEP has expressed concerns on the application as the applied development involves use of medium goods vehicle and environmental nuisance to the sensitive users in the vicinity of the Site (**Plan A-2**) is expected. To address the concerns, relevant approval conditions including restriction of the operation hours at the Site are recommended in paragraph 13.2 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.
- 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, Chief Highway Engineer/New Territories East of Highways Department and Director of Fire Services (D of FS) 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 The Site is the subject of a previously approved application No. A/NE-HLH/64 for the same use with the same development parameter submitted by the same applicant as the current application. It was approved by the Committee on 22.9.2023 mainly on considerations as detailed in paragraph 6.2 and was revoked due to non-compliance with approval condition in relation to the provision of fire extinguisher(s). In this regard, the applicant has submitted a valid fire certificate F.S.251 showing the provision of fire extinguishers at the Site under the current application (**Appendix Ib**). D of FS has no objection to the application.
- 12.8 There are seven similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61 and 66) approved by the Committee between August 2021 and December 2023 (i.e. after the sites were reclassified from Category 3 to Category 2 under TPB PG-No.13F/G) mainly on considerations that the applications generally complied with the TPB PG-No. 13F/13G in that no major adverse departmental comments were received 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 applications.
- 12.9 Regarding the public comments on the application as detailed in paragraph 11, 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 public comments as detailed in paragraph 11, the Planning Department considers that the temporary development could be tolerated for a period of 3 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 19.4.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation ~~from~~ *between* 5:00 p.m. ~~to~~ *and* 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 19.10.2024;
- (d) in relation to (c) 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 19.1.2025;
- (e) in relation to (d) above, the implemented drainage facilities ~~at the Site~~ 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 31.5.2024;
- (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 19.10.2024;
- (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 19.1.2025;
- (i) if any of the above planning condition (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 condition (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**.

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

- the applied use 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 27.12.2023
<b>Appendix Ia</b>	Supplementary Information received on 28.12.2023
<b>Appendix Ib</b>	FI received on 2.2.2024
<b>Appendix Ic</b>	FI received on 1.3.2024
<b>Appendix Id</b>	FI received on 2.4.2024
<b>Appendix Ie</b>	FI received on 5.4.2024
<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>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos