

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/75

Applicant : Ying Shing (Hopewell) Engineering Limited

Site : Lots 367 RP (Part) & 368 in D.D. 87, Hung Lung Hang, New Territories

Site Area : 2,266m² (about)

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 Materials for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently vacant with works in progress, partly hard-paved and partly covered with grass (**Plan A-4**).
- 1.2 The Site is accessible from its west via a local track leading to Kong Nga Po Road (**Plan A-1**). According to the applicant’s submission, the Site is proposed for open storage of construction materials with a one-storey temporary structure for transformer room, which has a floor area of about 4m² and a building height of not more than 2.5m. Two private car parking spaces and two loading/unloading (L/UL) spaces for medium goods vehicle are proposed within the Site. Two 4m-wide vehicular accesses are proposed at the western boundary of the Site. According to the traffic management measures proposed by the applicant, sufficient manoeuvring space will be provided within the Site and no vehicle will queue back on the local road. To ensure pedestrian safety, a setback of 1.5m to 2m between the Site and the local track will be provided and convex mirror will be installed at the ingress/egress. Drainage system comprising U-channels, manhole and catchpits along the site boundaries is proposed. The operation hours are between 9:00 a.m. and 5:00 p.m. from Mondays to Fridays, and no operation on Saturdays, Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

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|-----|---|----------------------|
| (a) | Application Form with attachments received on 26.7.2024 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 31.7.2024 | (Appendix Ia) |
| (c) | Further Information (FI) received on 14.10.2024* | (Appendix Ib) |

** accepted and exempted from publication and recounting requirements*

1.4 On 20.9.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months 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, SI and FI at **Appendices I to Ib**, as summarised below:

- (a) the Site is adjoining two approved applications No. A/NE-HLH/64 and 70, which were submitted by the same applicant for temporary open storage uses (**Plan A-1**). Approval of the current application is in line with the Board's previous decisions and will not set an undesirable precedent;
- (b) no adverse environmental, traffic, drainage and landscape impacts are anticipated;
- (c) the proposed use would only generate eight traffic trips per day, which would not create additional traffic burden on the existing roads; and
- (d) public drainage system is available in the area and the applicant would provide drainage connections properly.

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 taking reasonable steps to give notification to the owner including posting site notice and sending a notice to Sheung Shui District Rural Committee. 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 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

Part of the Site is subject to active planning enforcement action against unauthorized development (UD) involving storage use (including deposit of containers) (No. E/NE-HLH/155) (**Plan A-2**). Enforcement Notice (EN) was issued on 14.2.2024 requiring discontinuation of the UD. Site inspection on 29.7.2024 revealed that the UD still continued upon expiry of the EN, prosecution action is being considered by the Planning Authority.

6. **Previous Application**

The Site is not the subject of any previous application.

7. **Similar Applications**

- 7.1 There were 18 similar applications involving 12 sites for temporary open storage uses within the same “AGR” zone in the vicinity of the Site in the Hung Lung Hang area in the past five years (**Plan A-1**). Six of them (No. A/NE-HLH/38, 39, 43, 44, 46 and 48) were rejected by the Committee in 2020 mainly for reasons of not complying with the previous versions of TPB PG-No. 13E/13F in that the sites fell within Category 3 areas and no previous planning approvals were granted to the sites concerned; adverse departmental comments; and insufficient information to demonstrate that the developments would not generate adverse environmental, traffic and landscape impacts on the surrounding areas.
- 7.2 The remaining 12 similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61, 64, 66, 68, 70, 71 and 76) were approved with conditions between 2021 and 2024 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 summarised at **Appendix III** 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) vacant with works in progress, partly hard-paved and partly covered with grass; and
 - (b) accessible via a local track leading to Kong Nga Po Road.
- 8.2 The surrounding areas are intermixed with open storages and warehouses (including two sites with valid planning permissions under applications No. A/NE-HLH/70 and 71), temporary domestic structures, a pigsty, vacant land and tree clusters. There is a watercourse surrounding the western and northern boundary and passes through the eastern portion of the Site. Domestic structures can be found in the vicinity with the nearest located at about 70m to the northeast 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 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.

10.2 The following government departments do not support/have adverse comments on the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) 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 and plant nurseries, etc.; and
- (c) there is a watercourse surrounding the western and northern boundary and passes through the eastern portion of the Site. Having reviewed the FI (**Appendix Ib**) submitted by the applicant, he has no further comment on the application from nature conservation perspective.

Environment

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

- (a) does not support the application as there are sensitive users in the vicinity of the Site (the nearest domestic structure being about 70m away) (**Plan A-2**), and environmental nuisance is expected as the proposed use involves use of heavy vehicles;
- (b) there was no substantiated environmental complaint pertaining to the Site received in the past three years; and
- (c) should the application be approved, the applicant is advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’.

11. Public Comments Received During Statutory Publication Period

On 2.8.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix VI**). A comment from an individual objects to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone and the Site is not the subject of any previous planning approval. Another comment from a member of North District Council indicates no comment on the application.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary open storage of construction materials for a period of three years at the Site which falls within an area zoned “AGR” on the OZP. The proposed use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality 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 perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the proposed use 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 currently vacant with works in progress, partly hard-paved and partly covered with grass. The proposed use is considered not entirely incompatible with the surrounding land uses intermixed with open storages, warehouses, temporary domestic structures, a pigsty, vacant land and tree clusters. In this regard, the Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective as significant adverse impact on the landscape character and existing landscape resources arising from the proposed use is not anticipated. Should the application be approved, approval condition requiring the applicant to reinstate the Site to an amenity area is recommended in paragraph 13.2 below.

12.4 The Site is accessible via a local track leading to Kong Nga Po Road. The Commissioner for Transport has no comment on the application from traffic engineering perspective. DEP does not support the application as the proposed use involves the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. domestic structures) in the vicinity of the Site is expected (**Plan A-2**). In this regard, the applicant will be advised to follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise the possible environmental impacts on the surrounding areas. Other relevant departments consulted, including the Chief

Engineer/Mainland North of Drainage Services Department and Director of Fire Services, have no objection to or no adverse comment on the application.

- 12.5 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.
- 12.6 There were 12 similar applications approved between 2021 and 2024 after the relevant sites were reclassified from Category 3 to Category 2 areas under the TPB PG-No. 13F/13G. They generally complied with TPB PG-No. 13F/13G in that no major adverse departmental comments were 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 those of the approved applications. As such, approval of the current applicant is in line with the Committee's previous decisions.
- 12.7 Regarding the objecting public comment as detailed in paragraph 11 above, 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 the public comments in paragraph 11, the Planning Department considers that the proposed use for a period of three years could be tolerated.
- 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 6.12.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 6.6.2025;
- (b) in relation to (a) 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 6.9.2025;
- (c) in relation to (b) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (d) 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 17.1.2025;
- (e) 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 6.6.2025;

- (f) in relation to (e) 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 6.9.2025;
- (g) if the above planning condition (c) 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;
- (h) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (i) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the 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 use is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality 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. There is no strong justification in the submission for a departure from such 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

Appendix I	Application Form with Attachment received on 26.7.2024
Appendix Ia	SI received on 31.7.2024
Appendix Ib	FI received on 14.10.2024
Appendix II	Relevant Extracts of TPB PG-No. 13G on Application for Open Storage and Port Back-up Uses
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	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3a	Aerial Photo
Plan A-3b	Unmanned Aerial Vehicle Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2024**