

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-HLH/80

<u>Applicant</u>	: Smart Long Development Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 166 (Part), 167 (Part), 169 (Part), 170 and 174 (Part) in D.D. 87, Hung Lung Hang, New Territories
<u>Site Area</u>	: About 5,774m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Hung Lung Hang Outline Zoning Plan (OZP) No. S/NE-HLH/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Open Storage of Construction Materials with Ancillary Facilities and Associated Filling of Land for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials with ancillary facilities and associated filling of land 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 building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is currently partly under active cultivation and partly occupied by fallow agricultural land with some temporary structures (**Plans A-4a to 4c**).
- 1.2 According to the applicant, the application is submitted to facilitate the relocation of an existing brownfield operation in Ha Tsuen, Yuen Long being affected by government project, i.e. the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA) ¹. The affected operation involves a site area of 6,562m² as claimed by the applicant and is currently used for open storage of construction materials, which is the same as the proposed use. The affected land in Yuen Long has been partially resumed by the Government on 31.8.2024.

¹ The applicant is authorised by Action Top Engineering Limited, which is the affected brownfield operator, to submit the current application. As clarified by the applicant, Action Top Engineering Limited is the sole tenant of the affected premises who commenced the business from April 2018.

- 1.3 The Site is accessible via a local track leading to Kong Nga Po Road (**Plan A-2**). According to the applicant, about 3,270m² (57% of the Site) is proposed for open storage of construction materials (e.g. steel beam, bricks, scaffold, etc.) with stacking height of not more than 2.5m, and the remaining uncovered area is proposed for vehicle parking, loading/unloading (L/UL) spaces and circulation area. The proposal also consists of a one-storey temporary structure with building height of about 3.5m and a floor area of about 216m² for ancillary facilities including storage of tools, site office and washroom uses. Five parking spaces for private cars (7m (L) x 2.5m (W)), one L/UL space for light goods vehicles (7m (L) x 3m (W)) and one L/UL space for container vehicles (16m (L) x 3.5m (W)) are proposed within the Site. An ingress/egress with 7.3m in width is proposed at the western boundary of the Site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.4 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; staff will be deployed to manage the traffic; warning signs will be installed at the ingress/egress to ensure the safety of pedestrians; and no vehicle without valid licenses issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations will be allowed to be parked/stored at the Site.
- 1.5 The applicant also applies for filling of the entire site by concrete with a depth of not more than 0.2m for open storage operations, parking and L/UL spaces and circulation area. A minimum setback of 3m will be reserved between the Site and Ping Yuen River to its immediate north as well as a watercourse to its immediate east. In terms of sewage treatment, the applicant proposes to provide septic tank and soakaway system to collect the sewage generated from the proposed use. While all existing trees within the Site are proposed to be felled, no old and valuable trees or protected species are identified within the Site. A 2.5m high solid metal fencing will be erected to minimise noise nuisance to the surrounding area.
- 1.6 In support of the application, the applicant has submitted the following documents:
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|-----|---|------------------------|
| (a) | Application Form received on 27.2.2025 | (Appendix I) |
| (b) | Planning Statement received on 27.2.2025 | (Appendix Ia) |
| (c) | Supplementary Information (SI) received on 5.3.2025 | (Appendix Ib) |
| (d) | Further Information (FI) received on 3.4.2025 * | (Appendix Ic) |
| (e) | FI received on 8.4.2025 * | (Appendix Id) |

** accepted and exempted from the publication and recounting requirements*

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement, SI and FIs at **Appendices Ia to Id**, as summarised below:

- (a) the application is submitted to facilitate the relocation of an existing business operation affected by HSK/HT NDA. The proposed use is the same as the affected operation and the site area is similar to the area of the affected operation;
- (b) the applicant has spent effort in identifying alternative sites in the New Territories (e.g. Man Kam To, Ma Tso Lung, San Tin, Lau Fau Shan and Lam Tei) but those sites are

considered not suitable or impracticable due to reasons such as land use incompatibility, environmental concerns, land ownership issue and accessibility, etc.. The Site is identified as it is relatively flat, easily accessible and not incompatible to surrounding land uses;

- (c) the proposed use is temporary in nature and approval of the application would better utilise land resources and not frustrate the long-term planning intention of the “AGR” zone;
- (d) the Site is far away from sensitive receivers and the proposed use is considered not incompatible with the surrounding areas which comprise various brownfield operations;
- (e) the Site falls mostly within Category 3 and partly within Category 2 areas under 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). Taking into account policy support is given by relevant bureau and there is no major adverse departmental comments, approval of the application is in line with TPB PG-No. 13G;
- (f) traffic generated and attracted by the proposed use is minimal and adverse traffic impact is not anticipated;
- (g) the applicant will strictly comply with all environmental protection/pollution control ordinances at all times during the planning approval period; and follow relevant mitigation measures and requirements in the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (COP) and Professional Persons Environmental Consultative Committee (ProPECC) Practice Notes (PN) 1/23 and 2/23 issued by the Environmental Protection Department to minimise adverse environmental impacts and nuisance to the surrounding area;
- (h) the applicant will submit and implement drainage and fire service installations proposals upon approval of the planning application, and no significant nuisance to the surrounding areas is anticipated; and
- (i) the applicant will submit application for Short Term Waiver (STW) to the Lands Department (LandsD) upon approval of the planning application.

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 posting site notice and sending a notice to Ta Kwu Ling District Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

TPB PG-No. 13G promulgated on 14.4.2023 is relevant to this application. Majority of the Site (about 80%) falls within Category 3 areas and the remaining part of the Site (about 20%) falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. **Background**

The Site is not subject to any planning enforcement action.

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Applications**

- 7.1 There were 18 similar applications involving 13 sites for temporary open storage use 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**). Four of them (No. A/NE-HLH/43, 44, 46 and 48) were rejected by the Rural and New Town Planning Committee (the Committee) in 2020 mainly for reasons of not complying with the then TPB PG-No. 13F in that the sites fell within Category 3 areas and no previous planning approvals were granted to the sites concerned; having adverse departmental comments and local objections; and being failed to demonstrate that the developments would not generate adverse traffic impact on the surrounding areas.
- 7.2 Amongst them, 13 similar applications (No. A/NE-HLH/51, 54, 55, 59, 60, 61, 64, 66, 68, 70, 71, 75 and 76) were approved with conditions by the Committee between 2021 and 2024 after the relevant sites were reclassified from Category 3 to Category 2 areas 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 The remaining application No. A/NE-HLH/77, which falls largely within Category 3 areas under TPB PG-No. 13G was also approved with conditions by the Committee in 2024 mainly on the grounds that the Secretary for Development (SDEV) rendered policy support to the application for relocation of brownfield operation affected by government projects, and no major adverse departmental comments were received on the application and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.4 Details of the similar applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) partly under active cultivation and partly occupied by fallow agricultural land with some temporary structures;
- (b) located to the immediate east of a cluster of open storage yards and warehouses covered by valid planning permissions (applications No. A/NE-HLH/66, 68, 76 and 77); and

(c) accessible via a local track leading to Kong Nga Po Road.

8.2 The surrounding areas are intermixed with warehouses, open storages yards, temporary structures, vacant land, vegetated area and tree clusters. Ping Yuen River runs along the northern and eastern boundaries of the Site. To the further northwest of the Site across Ping Yuen River is a wooded area zoned “Green Belt” (“GB”).

9. Planning Intention

9.1 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.

9.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/Departments

10.1 Apart from the government bureau/departments as set out in paragraphs 10.2 and 10.3 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 bureau supports the application:

Policy Aspect

10.2.1 Comments of SDEV:

- (a) the application is to facilitate relocation of a brownfield operation for open storage of construction materials which is currently situated at various lots in D.D. 125 in Yuen Long, which will be affected by the Second Phase development of the HSK/HT NDA;
- (b) according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere, and the Site under the current application is the most suitable relocation site. According to LandsD’s record, the original operating premises has a site area of about 5,947m². The Site is of similar size as the one to be cleared by the Government; and
- (c) subject to no adverse comments on land use compatibility and technical aspects from concerned departments, the application is supported from the policy perspective.

- 10.3 The following government departments do not support or have adverse comment on the application:

Land Administration

10.3.1 Comments of the District Lands Officer/North, LandsD (DLO/N, LandsD):

- (a) she has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lots 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;
- (c) the following irregularity covered by the subject planning application has been detected by her office:

- (i) unauthorised structures within the said private lots covered by the planning application

there are unauthorised structures on the private lots. The lot owners should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (i) unlawful occupation of GL not covered by the planning application

the GL adjoining Lot 167 in D.D. 87 has been illegally occupied with unauthorised structure without permission. The GL being illegally occupied is not included in the planning application. Any occupation of GL without Government's prior approval is an offence under the Land (Miscellaneous Provisions) Ordinance (Cap. 28). Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (i) unlawful occupation of GL not covered by the planning application
- (e) the lot owner shall remove the unauthorised structures and cease the illegal occupation of the GL not covered by the planning application immediately and subject to the approval of the Board to the planning application which shall have reflected the rectification as aforesaid required, apply to her office for a STW to permit the structures erected/to be erected. The application for STW will be considered by LandsD in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of backdated waiver fee from the first date when the unauthorised structures were erected and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner for any breach(es) already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides,

given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and

- (f) the applicant should comply with all the land filling requirements imposed by relevant Government departments. GL should not be disturbed unless with prior approval.

Agriculture and Nature Conservation

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

- (a) he does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally abandoned. Part of the Site is under active cultivation. 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 and plant nurseries, etc.; and
- (c) recent site inspection revealed that the Site is partly agricultural land and partly occupied with temporary structures. A natural watercourse is located to the east and south of the Site. Measures proposed by the applicant to avoid pollution to the watercourse are noted (**Appendix Ic**). As such, he has no further comment on the application from nature conservation perspective.

11. Public Comments Received During Statutory Publication Period

On 7.3.2025, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix VI**). One individual objects to the application for the reasons that the Site is not the subject of any previous planning approval; the Site does not fall within Category 2 areas under TPB PG-No. 13G; and the proposed use will induce adverse environmental impact on the nearby watercourse. The remaining public comment from a member of the 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 with ancillary facilities and associated filling of land for a period of three years at the Site zoned “AGR” on the OZP (**Plan A-1**). 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 and agricultural activities are active in the vicinity. Nevertheless, SDEV supports the application from the policy perspective subject to no adverse comments on land use compatibility and technical aspects from concerned departments, noting that the application is submitted to facilitate relocation of a brownfield operation for open storage of construction materials currently situated in Yuen Long, which will be

affected by the Second Phase development of HSK/HT NDA and according to the applicant, a site search has been conducted with a view to identifying suitable site for re-establishment of the business elsewhere, the Site under the current application is the most suitable relocation site and is also of similar size as the one to be cleared by the Government. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis for a period of three years.

- 12.2 The application involves filling of the entire site by concrete with a depth of not more than 0.2m. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from public drainage and environmental perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.3 The Site falls largely within Category 3 areas (about 80%) and partly within Category 2 areas (about 20%) 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 use would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Having considered that the open storage and port back-up uses have a role to play in Hong Kong’s economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to those applications meeting the following criteria: (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and (ii) no adverse departmental comments and local objections, or the concern could be addressed by approval conditions.

- 12.4 The Site is bounded by Ping Yuen River on three sides and immediately adjoining a cluster of brownfield operations within the Category 2 areas under TPB PG-No. 13G with valid planning permissions to the west. It is situated in an area of rural character intermixed with warehouses, open storage yards, temporary structures, vacant land, vegetated area and tree clusters (**Plans A-2 and A-3**). The proposed use is considered not entirely incompatible with the surrounding land uses and it could be considered as an extension of the existing brownfield operation to the immediate west. Noting that significant adverse impacts on the landscape character and existing landscape resources within the Site are not anticipated, the Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application from landscape planning perspective.

- 12.5 Concerned government departments consulted, including the Commissioner for Transport and Director of Fire Services, have no objection to or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. Should the application be approved, the applicant will be advised to follow the latest COP and to provide sewerage facilities in accordance with ProPECC PN 1/23 in order to minimise the possible environmental nuisance on the surroundings. In view that the Site is adjacent to Ping Yuen River, the applicant will also be advised to follow good site practice and avoid causing adverse impact on the river as set out in the Recommended Advisory Clauses in **Appendix V**. Regarding DLO/N, LandsD's concern on the unauthorised structures within the Site and unlawful occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.6 The application is generally in line with TPB PG-No. 13G in that policy support is rendered by SDEV to the application for relocation of the affected uses to the Site, there is no major adverse departmental comments on the application and their concerns can be addressed through imposition of approval conditions.
- 12.7 There were 14 similar applications for temporary open storage approved by the Committee between 2021 and 2024 on the considerations as mentioned in paragraphs 7.2 and 7.3 above, including that the proposed use generally complied with TPB PG-No. 13F/13G. The planning circumstances of the current application are similar to those of the approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 12.8 Regarding the adverse public comment mentioned in paragraph 11 above, the government bureau's/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 mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 11.4.2028. 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 11.10.2025;
- (b) in relation to (a) above, the implementation of the flood mitigation measures and 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 11.1.2026;

- (c) in relation to (b) above, the implemented drainage facilities shall 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 23.5.2025;
- (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 11.10.2025;
- (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 11.1.2026;
- (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 the expiry of the planning permission, the reinstatement of the application site, including the removal of fill materials and hard paving, and grassing of the application site 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 with associated filling of land 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 received on 27.2.2025
Appendix Ia	Planning Statement received on 27.2.2025
Appendix Ib	SI received on 5.3.2025
Appendix Ic	FI received on 3.4.2025
Appendix Id	FI received on 8.4.2025
Appendix II	Relevant Extracts of TPB Guidelines No. TPB PG-No. 13G
Appendix III	Similar s.16 Applications 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-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
APRIL 2025**