

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/615

Applicant : Man Tsz Ting Tso (Managers are Messrs. MAN Wai Lok Joe, MAN Kin Hung and MAN Ka Cheong Eddy) represented by Mr. HUI Kwan Yee

Site : Lot 477 RP in D.D. 9, Nam Wa Po, Tai Po, New Territories

Site Area : 214.91m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11

Zoning : "Green Belt" ("GB")

Application : Temporary Warehouse for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse for a period of three years at the application site (the Site) which falls within an area zoned "GB" on the approved Kau Lung Hang OZP No. S/NE-KLH/11. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the "GB" zone requires planning permission from the Town Planning Board (the Board). The Site is hard paved and currently occupied by the applied use without valid permission.
- 1.2 According to the applicant, the applied use comprises 6 single-storey structures including a storeroom, an office, warehouses and a canopy, with a total floor area of 175.11m² and height ranging from 2.44m to 4.27m for storage of packed food. The Site is accessible via a local track connecting to Tai Wo Service Road West, and a loading/unloading bay for light good vehicles will be provided within the Site. The operation hours are from 8:00 a.m. to 8:00 p.m. daily. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form and Supplementary Information (**Appendices I** and (SI) received on 24.8.2022 and 31.8.2022 **Ia**) respectively
 - (b) Further Information (FI) received on 22.12.2022 (**Appendix Ib**)
 - (c) FI received on 21.4.2023 (**Appendix Ic**)

- 1.4 On 14.10.2022 and 17.2.2023, the Committee agreed to the applicant's requests to defer making a decision on the application for two months respectively 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, SI and FI at **Appendices I to Ic** as summarized below:

- (a) the Site was left vacant and in poor hygiene conditions. The applied warehouse use for storage of packed food (e.g. biscuits and sweets etc.) could improve the site condition and better utilize the abandoned land;
- (b) since the temporary structures have been erected on the Site for years, no excavation and filling of land will be involved under the application;
- (c) the Site is accessible via an existing local track and the trip generation arising from the proposed use is about 3 trips per day. No adverse traffic impact on surrounding areas is anticipated; and
- (d) the proposed warehouse is for storage of packed food only. No chemicals, pesticides nor any potential contaminants will be stored within the Site. No toilet will be provided within the Site and it is expected that no sewage would be generated from the applied use. Staff will be arranged to remove waste from the Site daily and a notice reminding staff not to incur pollution to the Water Gathering Grounds (WGG) will be posted at prominent location within the Site. In light of the above proposed measures, the applicant considers that there would be no material increase in pollution effect within WGG.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for ‘Application for Development within “GB” zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. Background

The Site is not subject to any active planning enforcement action.

6. Previous Application

There is no previous application for the Site.

7. Similar Applications

7.1 There are three similar applications (No. A/NE-KLH/525, 584 and 605) covering two sites for temporary warehouses for storage of recreational equipment, construction materials and exhibition equipment respectively within the same “GB” zone in the vicinity of the Site (**Plans A-1 and A-2**). All of them were approved by the Rural and New Town Planning Committee (the Committee) on 7.4.2017, 1.9.2020 and 6.5.2022 respectively mainly on considerations that there were previous planning approvals and warehouse uses were located in close proximity to the “Open Storage” (“OS”) zone, there were no adverse departmental comments and they would unlikely cause adverse environmental and water quality impacts on the surrounding areas.

7.2 Details of the similar applications are summarized at **Appendix III** and their locations are shown on **Plans A-1 and A-2**.

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

8.1 The Site is:

- (a) hard paved and largely occupied by temporary structures;
- (b) located within the upper indirect WGG; and
- (c) accessible via a local track connecting to Tai Wo Service Road West.

8.2 The surrounding areas are predominantly rural in character comprising temporary structures, a plant nursery and clusters of tree groups. About 100m to the south are the warehouses subject to planning approval and the “OS” zone as mentioned in paragraph 7.1 above. To the west of the Site across a nullah is the village proper of Nam Wa Po.

9. Planning Intention

The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 Apart from the government department 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 at **Appendices IV and V** respectively.

10.2 The following government department objects to the application.

Water Supply

10.2.1 Comments of Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) object to the application since part of the Site together with some temporary structures encroaches into Waterworks Reserves (WWR) for Tau Pass Culvert;
- (b) the Site is within upper indirect WGG;
- (c) the applicant's submissions are considered insufficient to prove and demonstrate that there would be no material increase in pollution effect to the WGG resulting from the applied use. As such, there are risks of contamination to the WGG due to operation and maintenance of the warehouses, as well as sewage discharge from staff working in warehouses and office; and
- (d) there will be vehicle loading/unloading activities of storage materials at the Site, which may pose risk of oil contamination to WGG. However, there are no particulars in the applicant's submissions to address the concern of oil leakage and spillage which are not allowed within WGG at all time.

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

The application was published for public inspection. During the statutory public inspection period, two comments were received from individuals objecting to the application mainly for reasons that the proposal is a suspected unauthorized development, and it would cause adverse environmental, traffic and fire safety impacts as well as security concerns.

12. Planning Considerations and Assessments

12.1 This application is for temporary warehouse for storage of packed food for a period of three years at the Site zoned "GB" on the OZP. The applied use is not in line with the planning intention of the "GB" zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. Although Director of Agriculture, Fisheries and Conservation (DAFC) has no strong view on the application from nature conservation point of view as the Site is already occupied by existing temporary structures, there is insufficient information in the submission to justify exceptional circumstance for warehouse

use within the “GB” zone, where there is a general presumption against development within this zone. There is no strong justification in the submission for a departure from the planning intention of “GB” zone, even on a temporary basis.

- 12.2 The Site falls within the upper indirect WGG, and CE/C of WSD objects to the application since part of the Site together with some temporary structures encroaches onto the WWR for Tau Pass Culvert. Furthermore, the applicant failed to demonstrate that there would be no material increase in the pollution effect to the WGG arising from daily operation and maintenance of the warehouse, such as sewage discharge from staff working in the warehouses and oil leakage and spillage from loading/unloading vehicles. CE/C of WSD considers that there are risks of contamination to the WGG. In this regard, the application does not comply with the TPB PG-No. 10.
- 12.3 The Site is hard paved and largely occupied by temporary structures. It is located in an area characterized by temporary structures, a plant nursery and tree clusters. Chief Town Planner/Urban Design and Landscape, Planning Department has no objection to the application from landscape planning perspective. Other government departments concerned including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, and Director of Fire Services have no objection to or no adverse comment on the application.
- 12.4 Three similar applications (No. A/NE-KLH/525, 584 and 605) covering two sites for temporary warehouse use within the same “GB” to the south of the Site were approved by the Committee mainly on consideration that there were previous planning approvals and the warehouse uses were located in close proximity to the “OS” zone, there were no adverse departmental comments, and they would unlikely cause adverse environmental and water quality impacts on the surrounding areas. For the current application, the Site is located about 100m away from the “OS” zone and it is not subject to any previous approval for warehouse use. Also, CE/C of WSD objects to the application for reason of encroachment onto the WWR and failure to demonstrate that there would be no material increase in pollution effect to the WGG arising from the applied development. The planning circumstances of the approved similar applications are not applicable to the current one.
- 12.5 Regarding the objecting public comments as detailed in paragraph 10 above, government departments’ comments and the 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, the Planning Department does not support the application for the following reason:

(a) the applied use is not in line with the planning intention of “GB” zone,

which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong planning justification provided in the submission to justify a departure from the planning intention; and

- (b) the development does not comply with the Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for 'Application for Development within "GB" zone under Section 16 of the Town Planning Ordinance' in that there is insufficient information in the submission to demonstrate that the development has complied with the development controls and restrictions of areas designated as WGG.

13.2 Alternatively, 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 9.6.2026. The following conditions of approval and advisory clauses are also 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 9.12.2023;
- (b) in relation to condition (a) above, the implementation of 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 9.3.2024;
- (c) in relation to condition (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a proposal for fire service installations and water supplies for fire-fighting 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 9.12.2023;
- (e) in relation to condition (d) above, implementation of proposal for fire service installations and water supplies for fire-fighting 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 9.3.2024;
- (f) the submission of a risk assessment report/proposal of preventive measures against water pollution within the upper indirect water gathering grounds within 6 months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 9.12.2023;
- (g) in relation to condition (f) above, the implementation of mitigation

measures identified therein/proposal of preventive measures against water pollution within 9 months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 9.3.2024;

- (h) 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;
- (i) if any of the above planning conditions (a), (b), (d), (e), (f) or (g) 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
- (j) upon the expiry of the planning permission, the reinstatement of the application 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 attached at **Appendix V**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

15. Attachments

Appendix I	Application form received on 24.8.2022
Appendix Ia	SI received on 31.8.2022
Appendix Ib	FI received on 22.12.2022
Appendix Ic	FI received on 21.4.2023
Appendix II	Relevant extract of TPB PG-No. 10
Appendix III	Similar applications
Appendix IV	Government departments' general comments
Appendix V	Recommended advisory clauses
Appendix VI	Public comments
Drawing A-1	Layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan

Plan A-3

Aerial photo

Plan A-4

Site photos

**PLANNING DEPARTMENT
JUNE 2023**