

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

**APPLICATION NO. A/NE-KLH/629**

<b><u>Applicant</u></b>	: Tung Tak Investment (HK) Limited represented by Goldrich Planners & Surveyors Limited
<b><u>Site</u></b>	: Lots 617 S.B RP, 618 S.B ss.1 and 622 S.B RP (Part) in D.D. 9, Nam Wa Po Tai Po, New Territories
<b><u>Site Area</u></b>	: About 1,226m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
<b><u>Zoning</u></b>	“Green Belt” (“GB”)
<b><u>Application</u></b>	Temporary Warehouse with Ancillary Office for a Period of Three Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary warehouse with ancillary office for a period of three years at the application site (the Site) which falls within an area zoned “GB” on the OZP (**Plan A-1**). 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 planning permission.
- 1.2 According to the applicant, the applied development is for storage of construction materials such as ceramic pipes, tiles and concrete blocks. It comprises five 1-2 storeys structures (with a total floor area of about 557.1m<sup>2</sup> and height ranging from 5m to 5.5m) for open sheds, office, warehouse, open platform and container-converted storage uses (**Drawing A-1**)<sup>1</sup>. No parking space and loading/unloading space are provided within the Site and loading/unloading activities will only be carried out at the adjoining open storage site within the “OS” zone to the immediate south of the Site which is also owned by the applicant (**Drawing A-2**). The Site is accessible via a track leading to Tai Wo Service Road West to the east. The operation hours of the applied use are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with

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<sup>1</sup> According to the applicant, a small portion (i.e. about 8m<sup>2</sup>) of the open shed (Structure No. 4 as shown in **Drawing A-1**) encroaches onto the adjoining “Open Storage” (“OS”) zone, where ‘warehouse (excluding dangerous goods godown)’ use is always permitted. As such, the concerned portion is excluded from the total floor area.

no operation on Sundays and public holidays. The applicant has also submitted a tree preservation and landscape plan, as well as a fire service installation proposal (**Drawings A-3 and A-4**).

1.3 The Site (in whole or in part) is the subject of 11 previous applications approved by the Rural and New Town Planning Committee (the Committee) or the Board on review between 2001 and 2020. The last previous application (No. A/NE-KLH/584), submitted by the same applicant for the same use as the current application, was approved by the Committee on 1.9.2020, but the planning permission was revoked on 1.2.2023 due to non-compliance with approval conditions. Details of the previous applications are set out in paragraph 6 below. Compared with Application No. A/NE-KLH/584, there are changes to the site layout and major development parameters, including a decrease in the number of structures from 11 to five and decrease in the total floor area from 686.7m<sup>2</sup> to 557.1m<sup>2</sup>.

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

- (a) Application Form with attachments received on 26.6.2023 (**Appendix I**)
- (b) Further Information (FI) received on 28.7.2023 (**Appendix Ia**)
- (c) FI received on 9.8.2023 <sup>#</sup> (**Appendix Ib**)
- (d) FI received on 5.9.2023 (**Appendix Ic**)

<sup>#</sup> *accepted but not exempted from 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 Application Form and FIs at **Appendices I to Ic**, as summarized below:

- (a) the Site is the subject of previous planning approvals and there are similar applications approved by the Board within the same “GB” zone;
- (b) the applicant failed to implement the sewerage connection proposal and protective measures against pollution or contamination to water gathering grounds (WGG) before the time limit, resulting in the revocation of the last previous planning approval (No. A/NE-KLH/584). Given that all approval conditions related to submission of technical proposals have been complied with under the last approval, the implementation of technical proposals can be carried out shortly upon approval of the current application;
- (c) no adverse landscape and visual impacts are anticipated as existing trees planted under the approved landscape proposal (**Drawing A-3**) in the previous application will be properly maintained, and the applied use is compatible with the surrounding environment;

- (d) no vehicles are allowed to enter or park at the Site and loading/unloading activities will only be carried out at the adjoining open storage site (**Drawing A-2**) within the “OS” zone owned by the applicant, and there will be low trip generation and attraction rates. As such, no adverse traffic and noise impacts are anticipated; and
- (e) oil tankers are not allowed to enter the Site. Besides, no fertilisers, chemicals, pesticides, larvicidal oil, rodenticide, toxicants, flammable solvents, tar, detergents and petroleum oil are allowed to be used, and the materials stored at the Site will not cause any leakage or contamination to the Site and its surrounding areas.

### 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 Applications**

- 6.1 The Site is the subject of 11 previous applications. All of them were approved by the Committee or the Board on review.
- 6.2 Ten of the applications (No. A/NE-KLH/233, 305, 318, 325, 364, 377, 393, 423, 480 and 532), which cover a larger area including the land to the south within the “OS” zone, were for temporary open vehicle park with ancillary on-site vehicle checking use. They were approved by the Committee or the Board on review between 2001 and 2017 for a period of one to three years mainly on consideration that there were previous approvals for the applied use; and concerns on traffic, drainage and environmental impacts to the surrounding areas had been addressed.
- 6.3 The last previous application (No. A/NE-KLH/584), submitted by the same applicant for the same use as the current application, was approved for a period of three years by the Committee on 1.9.2020 mainly for similar considerations as mentioned in paragraph 6.2 above, as well as the close proximity of the site to the “OS” zone. Subsequently, the planning permission was revoked on 1.2.2023 due to non-compliance with approval conditions in relation to the

implementation of sewerage connection proposal and protective measures against pollution or contamination to WGG. The difference between the last previous application and the current one are set out in paragraph 1.3.

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

## **7. Similar Applications**

- 7.1 There have been two similar applications (No. A/NE-KLH/605 and 615) for temporary warehouses within the same “GB” zone in the vicinity of the Site in the past five years. Application No. A/NE-KLH/605 was approved by the Committee on 6.5.2022 mainly on similar considerations as mentioned in paragraph 6.3. Application No. A/NE-KLH/615 was rejected by the Board on review on 15.9.2023 for being not in line with the planning intention of the “GB” zone; and not in line with TPB-PG No. 10 in that there was insufficient information in the submission to demonstrate that the development had complied with the development controls and restrictions of areas designated as WGG.
- 7.2 Details of the similar applications are summarized at **Appendix IV** 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) flat, hard paved and occupied by applied development without valid planning permission;
  - (b) adjoining the “OS” zone to the south;
  - (c) accessible via a track which connects to Tai Wo Service Road West; and
  - (d) located within the upper indirect WGG and encroaching onto the waterworks reserve of Tau Pass Culvert (**Plan A-2**).
- 8.2 The surrounding areas are predominantly rural in character comprising village houses, temporary structures, tree clusters and woodland. A warehouse is located to its immediate north and various open storage sites are located to its south. To the east is Tai Wo Service Road West and Fanling Highway. To the west 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 V and VI** respectively.

10.2 The following government department has objection to the application:

**Environment**

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

- (a) the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (‘COP’) is applicable to the application. In view of the presence of residential buildings within 100m of the application site boundary, and the application will generate traffic of heavy vehicles, he does not support the application in accordance with the ‘COP’; and
- (b) there is no environmental complaint related to the Site in the past three years.

**11. Public Comments Received During Statutory Publication Period**

On 4.7.2023 and 18.8.2023, the application and FI were published for public inspection. During the statutory public inspection period, two comments were received (**Appendix VII**). One of which was submitted by Nam Wa Po Village Committee objecting to the application mainly on the grounds that the application is not in line with the planning intention of the “GB” zone; and significant adverse noise and traffic impacts would be induced by the applied use. It also suggested that should the application be approved, storage of dangerous and obnoxious goods should be prohibited; and the operation hours should be limited from 9:30 a.m. to 5:30 p.m. Another comment was submitted by an individual who objects to the application mainly for the reason that the applicant failed to comply with the approval conditions under the previous planning approval.

## 12. Planning Considerations and Assessment

- 12.1 This application is for temporary warehouse with ancillary office 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. There is a general presumption against development within this zone. Nevertheless, the Director of Agriculture, Fisheries and Conservation has no strong view on the application from nature conservation perspective having regard to the fact that the Site is mostly hard paved and occupied by existing structures. Given its temporary nature, it is considered that approval of the application for a period of three years would not frustrate the long-term planning intention of the “GB” zone.
- 12.2 The Site is flat and has been hard paved for uses as part of a temporary open car park with ancillary on-site vehicle checking as well as temporary warehouse under previous planning approvals. The applied use is considered not incompatible with the surrounding land uses which are predominantly rural in character. Some trees of common species are observed along the northern and western boundary and are not in conflict with the proposed layout. In this regard, Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective. The applicant has committed to maintain properly the existing trees planted under the tree preservation and landscape plan (**Drawing A-3**).
- 12.3 DEP does not support the application in view of the presence of residential buildings within 100m from the Site, and the applied use will generate traffic of heavy vehicles. The applicant indicates that no vehicles will be allowed to enter or be parked at the Site and the loading/unloading activities will be carried out at the adjoining site to the south within the “OS” zone. The applicant also indicates that the operation hours of the applied use will be restricted from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. Furthermore, according to DEP, there has been no environmental complaint regarding the Site in the past three years. As such, it is considered that DEP’s concerns could be addressed through imposition of approval conditions in relation to the above mitigation measures. Any non-compliance with the approval conditions would result in revocation of the planning permission. The applicant will be advised to follow the ‘COP’ to avoid any potential environmental impacts on the nearby sensitive receivers.
- 12.4 The Site falls within the upper indirect WGG. The applicant has submitted the revised risk assessment report (**Appendix Ic**) to demonstrate that there will be no material increase in pollution effect arising from the applied use. Chief Engineer/Construction of Water Supplies Department has no further comment on the application and advised that approval condition on implementation of the preventive, control and mitigation measures proposed in the risk assessment report is required. Other government departments consulted including Chief Engineer/Mainland North of Drainage Services Department, Commissioner for Transport and Director of Fire Services have no objection to or no adverse comments on the application. In view of the above, the application generally

complies with TPB-PG No. 10.

- 12.5 The Site is the subject of 11 previous applications. The last previous application (No. A/NE-KLH/584) submitted by the same applicant for the same use was approved by the Committee on 1.9.2020 but was subsequently revoked due to non-compliance with approval conditions in relation to the implementation of sewerage connection proposal and protective measures against pollution or contamination to WGG. Should the Committee decide to approve the application, the applicant will be advised in the advisory clauses (**Appendix VI**) that should he fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.
- 12.6 There is a similar application (No. A/NE-KLH/605) within the same “GB” zone in the vicinity of the Site approved by the Committee in the past five years mainly on similar considerations as mentioned in paragraph 6.3 above. The application site of this similar application is located to the immediate north of the Site and the planning circumstances for approving this similar case are largely applicable to the current one.
- 12.7 Regarding the public comments as detailed in paragraph 11 above, government departments’ comments and planning assessment above are relevant.

### **13. Planning Department’s Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, Planning Department considers that the applied use 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 22.9.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m. from Mondays to Saturdays, 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) no excavation works exceeding 2m should be carried out unless prior written approval from the Director of Water Supplies is obtained, and no sinking of wells, blasting, drilling or piling works are allowed on the Site at any time during the planning approval period;
- (d) no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the

planning approval period;

- (e) 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 22.3.2024;
- (f) in relation to (e) 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 22.6.2024;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of a proposal for fire services 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 22.3.2024;
- (i) in relation to (h) above, the implementation of proposal for fire services 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 22.6.2024;
- (j) the implementation of preventive, control and mitigation measures identified in the accepted risk assessment report on pollution or contamination to the Water Gathering Grounds 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 22.6.2024;
- (k) if any of the above planning conditions (a), (b), (c), (d) or (g) 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;
- (l) if any of the above planning conditions (e), (f), (h), (i) or (j) 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
- (m) 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 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 “Green Belt” 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, 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 26.6.2023
<b>Appendix Ia</b>	FI received on 28.7.2023
<b>Appendix Ib</b>	FI received on 9.8.2023
<b>Appendix Ic</b>	FI received on 5.9.2023
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 10
<b>Appendix III</b>	Previous Applications
<b>Appendix IV</b>	Similar Applications
<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>	Layout Plan
<b>Drawing A-2</b>	Vehicular Access Plan
<b>Drawing A-3</b>	Tree Preservation and Landscape Plan
<b>Drawing A-4</b>	Fire Service Installation Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos