

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-LT/716

<u>Applicant</u>	Mr. HUNG Heung Keng represented by Mr. HUI Kwan Yee
<u>Site</u>	Lots 128 (part) and 132 (part) in D.D. 19, Lam Tsuen, Tai Po
<u>Site Area</u>	About 158.6m ²
<u>Lease</u>	Block Government Lease (demised for agricultural use)
<u>Plan</u>	Approved Lam Tsuen Outline Zoning Plan (OZP) No. S/NE-LT/11
<u>Zonings</u>	“Agriculture” (“AGR”) (about 99.5%) “Village Type Development” (“V”) (about 0.5%)
<u>Application</u>	Temporary Warehouse for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary warehouse for a period of 3 years and filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area largely zoned “AGR” (about 99.5%) with a very minor portion zoned “V” (about 0.5%) on the approved Lam Tsuen OZP No. S/NE-LT/11. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years, notwithstanding that the use or development is not provided for under the Notes of the OZP, as well as filling of land in “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is currently being used for the applied use without a valid planning permission.
- 1.2 According to the applicant, the applied use comprises six single-storey container structures and an open shed with a total gross floor area (GFA) of 119.28m² and height of not more than 3m, for storage of construction materials and small-scale construction parts/tools. The Site is accessible via a local track connecting to Lam Kam Road. The operating hours are between 8am and 8pm on Mondays to Saturdays, and it will be closed on Sundays and public holidays. A layout plan of the applied use is at **Drawing A-1**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) application form and attachments received on 17.1.2022 **(Appendix I)**
 - (b) supplementary information received on 21.1.2022 **(Appendix Ia)**
 - (c) further information (FI) received on 4.5.2022 **(Appendix Ib)**
 - (d) FI received on 15.6.2022 **(Appendix Ic)**
- 1.4 On 4.3.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to prepare FI in support of the application. The latest FI was received on 15.6.2022 and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application stated in Part 7 of the application form, supplementary information and FI at **Appendices Ia** to **Ic** are summarized as follows:

- (a) the Site was left vacant for a long time with poor environmental hygiene conditions since there is no planned development. There is insufficient space to store the construction materials for village houses nearby, and the applied use could prevent the construction materials from scattering in a disorderly manner;
- (b) the applied use is for the storage of construction materials and small-scale construction parts/tools. The applied use will not store machineries and there is no workshop activity. Therefore, it could improve the environment and make efficient use of unused land;
- (c) no parking space is provided for the applied use. Should the delivery of construction materials involve vehicles, it could access the Site through the adjacent temporary public vehicle park (i.e. under Application No. A/NE-LT/715 submitted by the same applicant to be considered at the same meeting with the current application). Adverse traffic impact arising from the applied use is not anticipated; and
- (d) in response to Water Supplies Department (WSD)'s comments, the applicant provides elaboration on the applied use and proposes to implement various preventive measures (**Appendices Ib** and **Ic**) to demonstrate that there would be no material increase in pollution effect to the water gathering grounds (WGG).

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

The applicant is not the “current land owners”. He has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notifications” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice in a prominent position on/near the Site and sending notice to Tai Po Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is part of the subject of a planning enforcement case (No. E/NE-LT/0078) against unauthorized development (UD) involving parking of vehicles and storage uses (including deposit of containers) (**Plan A-2**). Enforcement Notice (EN) was issued on 22.10.2021 requiring discontinuation of the UD. Site inspection on 10.6.2022 revealed that the UD still continued upon expiry of the notice, prosecution action may be followed.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application for the same use within the same “AGR” and “V” zones.

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

7.1 The Site is:

- (a) currently used for the applied use without valid planning permission;
- (b) situated at the northwestern fringe of Tong Min Tsuen;
- (c) accessible via a local track connecting Lam Kam Road; and
- (d) located within the upper indirect WGG.

7.2 The surrounding areas are predominantly rural in character comprising farlands, tree clusters, village houses, car park and temporary structures. To its immediate east is the village proper of San Uk Tsai and Tong Min Tsuen. An adjoining area to the north, west and south of the Site was used as public vehicle park operated by the same applicant without planning permission which is currently vacant (under Application No. A/NE-LT/715 to be considered at the same meeting with the current application). To the further

northeast and northwest, vehicle parks are found without planning permission (under the same enforcement case mentioned in paragraph 4).

8. Planning Intention

- 8.1 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.
- 8.2 According to the Explanatory Statement of the OZP, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and recommended advisory clauses are provided at **Appendices II** and **III** respectively.
- 9.2 The following government departments have been consulted and their views on the application are summarized as follows:

Agriculture

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) the Site is currently occupied by some structures. There are active agricultural activities in the vicinity and agricultural infrastructure such as road access and water source is available; and
 - (b) the Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural development point of view.

Landscape

- 9.2.2 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
- (a) some reservations on the application from landscape planning perspective;

- (b) the Site is hard paved and occupied by temporary structures. No significant sensitive landscape resources is observed within the Site. Significant adverse impact on existing landscape resources within the Site arising from the applied use is not anticipated;
- (c) however, compared with the aerial photos taken between 2005 and 2021, vegetation clearance within and surrounding the Site is observed, and an access road to the west of the Site was formed. Adverse impact on existing landscape resources had taken place (**Plan A-3**);
- (d) the Site is situated in an area of settled valleys landscape character comprising farmlands, clusters of tree groups, temporary structures, car parks and village houses within an area zoned “V” to the immediate east; and
- (e) the Site and the surrounding areas are subject to enforcement action for unauthorized car park and storage uses. Given that there is no similar development in close proximity to the Site previously approved by the Board within the same “AGR” zone, there is concern that approval of the application may further alter the landscape character of the “AGR” zone and degrade the landscape quality in the surrounding environment.

10. Public Comments Received During Statutory Publication Period (Appendix IV)

On 25.1.2022, the application was published for public inspection. During the statutory public inspection period, six public comments were received from individuals. Five of them object to the application mainly on the grounds that there are village houses close to the Site; and the applied use generates adverse impacts (i.e. traffic, environmental, noise and hygiene, etc.) which affect the living quality of the villagers. The remaining comment from an individual states that the applied use is currently in operation and this application should be considered in tandem with the temporary public vehicle park (private cars and light goods vehicles only) application (No. A/NE-LT/715) nearby.

11. Planning Considerations and Assessments

11.1 The application is for a temporary warehouse for a period of 3 years and filling of land at the Site largely zoned “AGR” (about 99.5%) with a very minor portion zoned “V” (about 0.5%) on the OZP (**Plan A-1**). The applied use is not in line with the planning intention of “AGR” zone, which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. DAFC does not support the application from agricultural development point of view as the Site possesses potential for agricultural rehabilitation. There is no strong justification in the submission for a departure from the planning intention of “AGR” zone, even on a

temporary basis. Filling of land within “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no adverse comment from the drainage and environmental perspectives.

- 11.2 The Site is situated at the northwestern fringe of Tong Min Tsuen. It forms part of the subject of a planning enforcement case against unauthorized car parking and storage uses. Past aerial photos reveal that vegetation within the Site and its immediate surroundings has been cleared since 2005 (**Plan A-3**). CTP/UD&L of PlanD states that given that there is no similar application for temporary warehouse within the same “AGR” zone in the vicinity of the Site, she has some reservations on the application from landscape planning perspective as approval of the application may encourage other similar developments, which may further alter the landscape character of the “AGR” zone and degrade the landscape quality in the surrounding environment.
- 11.3 The Site is located within the upper indirect WGG. Noting that the applicant has undertaken to implement various preventive measures against water pollution to the upper indirect WGG (**Appendices Ib and Ic**), the Chief Engineer/Construction of Water Supplies Department has no objection to the application ~~on condition that the applicant should submit and implement proposal on grease trap and petrol interceptor to his satisfaction~~. In addition, the applicant should be advised to observe and strictly follow the “Conditions for Working within WGG” (**Appendix V**) as appropriate. Other relevant government departments consulted have no objection to/adverse comment on the application from technical aspects.
- 11.4 Regarding the public comments objecting to the application as detailed in paragraph 10 above, comments of government departments and the planning assessments above are relevant.

12. **Planning Department’s Views**

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments mentioned in paragraph 10, the Planning Department does not support the application for the following reasons:
 - (a) the development is not in line with the planning intention of the “Agriculture” 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 planning justification in the submission for a departure from the planning intentions, even on a temporary basis; and
 - (b) the applicant fails to demonstrate in the submission that the development would not result in adverse landscape impacts on the area.

- 12.2 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 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 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 provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 24.12.2022;
- (d) 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 24.12.2022;
- (e) in relation to (d) 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 24.3.2023;
- (f) the submission of 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 24.12.2022;
- (g) in relation to (f) 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 24.3.2023;
- (h) if any of the above planning conditions (a) or (b) 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; and
- (i) if any of the above planning conditions (c), (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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval conditions 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. Attachments

Appendix I	Application form and attachments received on 17.1.2022
Appendix Ia	Supplementary information received on 21.1.2022
Appendix Ib	FI received on 4.5.2022
Appendix Ic	FI received on 15.6.2022
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Appendix V	"Conditions for Working within Water Gathering Grounds" issued by Water Supplies Department
Drawing A-1	Layout plan submitted by the applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photos
Plan A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2022**