

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

APPLICATION NO. A/NE-LT/734

<u>Applicants</u>	: Mr. CHI Yiu Hung Ms. CHI Man Yan
<u>Site</u>	: Lots 1115, 1116 and 1119 in D.D. 7, Kau Liu Ha, Lam Tsuen, Tai Po, New Territories
<u>Site Area</u>	: About 648m 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>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Shop and Services with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicants seek planning permission for temporary shop and services with an ancillary office for a period of three years at the application site (the Site) (**Plan A-1**) which falls within an area zoned “AGR” 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 three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicants, the applied use consists of seven structures with building height of not more than 6m (1 to 2 storey(s)), including a two-storey structure for an ancillary office on the first floor and a retail shop on the ground floor, and six one-storey structures with a walkway connecting to the ancillary office, rain shelters and storage areas of agricultural products and equipment. The site layout plan of the development submitted by the applicants is shown on **Drawing A-1**. The Site is accessible via a local track connecting to Lam Kam Road (**Plan A-2**). The opening hours will be from 8:00 a.m. to 10:00 p.m. from Mondays to Sundays.
- 1.3 In support of the application, the applicants have submitted the following documents:
 - (a) Application Form and supplementary information (SI) (**Appendix I**) received on 15.7.2022 and 27.7.2022 respectively

- (b) Further Information (FI) received on 23.8.2022 (Appendix Ia)
- (c) FI received on 24.10.2022 (Appendix Ib)
- (d) FI received on 2.12.2022 (Appendix Ic)

1.4 On 9.9.2022, the Committee agreed to the applicants' request to defer making a decision on the application for two months.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed in part 9 of the Application Form, SI and FIs at **Appendices I to Ic**. They can be summarized as follows:

- (a) the three subject lots are hard-paved and have been used for agricultural use by the applicants' family for the past decades;
- (b) the applied use can meet the needs of local residents on green living;
- (c) the application does not involve filling of land;
- (d) no parking space will be provided within the Site to ensure no queuing of vehicles outside the Site and no adverse traffic impact is anticipated. There are only limited number of visitors and they are encouraged to use public transport;
- (e) all waste water generated during operation and maintenance of the proposed structures will be properly collected and disposed of. No chemicals including fertilizers and detergents will be used and there will be no toilet facilities to ensure no material increase in pollution effect within the water gathering grounds (WGG); and
- (f) plants will be placed in covered areas to prevent nutrients and organic matters leach into overland flows within WGG.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicants are the sole "current land owners". Detailed information would be deposited at the meeting for Members' inspection.

4. Previous Application

There is no previous application at the Site.

5. Similar Application

There is no similar application within the same "AGR" zone in the vicinity of the Site.

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

6.1 The Site is:

- (a) located within upper indirect WGG;
- (b) paved and currently used for the applied use without valid planning permission;
- (c) situated at the northeastern fringe of Kau Liu Ha; and
- (d) accessible via a local track connecting to Lam Kam Road.

6.2 The surrounding areas are predominantly rural in character comprising farmland, tree clusters, temporary structures and village houses. Lam Kam Road is located to the southeast of the Site. Some domestic dwellings are found about 10m to the north and west of the Site and plant nurseries are found in the vicinity of the Site.

7. 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.

8. Comments from the Relevant Government Departments

8.1 Apart from the government department as set out in paragraph 8.2 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 II** and **III** respectively.

8.2 The following government department does not support the application.

Agriculture

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

- (a) does not support the application from agricultural point of view; and
- (b) there are active agricultural activities in the vicinity of the Site and agricultural infrastructure such as road access and water source is available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. The Site possesses potential for agricultural rehabilitation.

9. Public Comment Received During Statutory Publication Period (Appendix IV)

On 29.7.2022, the application was published for public inspection. During the statutory public inspection period, one public comment was received from an individual providing views on the application that the trees left on the Site should be retained.

10. Planning Considerations and Assessments

- 10.1 The application is for temporary shop and services with ancillary office for a period of three years at the Site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and also to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from agricultural point of view as there are active agricultural activities in the vicinity of the Site and the Site has potential for agricultural rehabilitation. While the development is not in line with the planning intention of the “AGR” zone, it is intended to provide shop and services and enhance green living to meet the needs of the local community. It is considered that approval of the application on a temporary basis for a period of three years would not jeopardize the long-term planning intention of the “AGR” zone.
- 10.2 The Site, situated at the northeastern fringe of Kau Liu Ha and with access to Lam Kam Road, is currently used for the applied use without valid planning permission. The applied use is considered not incompatible with its surrounding environment, which is located in an area of settled valleys landscape character comprising farmland, cluster of tree groups, temporary structures and village houses (**Plan A-2**). CTP/UD&L of PlanD has no objection to the application as significant adverse landscape impact arising from the development is not anticipated.
- 10.3 The Site is located within the upper indirect WGG. The applicants have confirmed that there will be no toilet facilities and no chemicals including fertilizers and detergents will be used to ensure no material increase in pollution effect within the WGG. Both DEP and CE/C of WSD have no comments on the application and advised that the applicants should comply with the “Conditions of Working within WGG” to ensure no insurmountable environmental impact would be caused and should follow the relevant mitigation measures and requirements in the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance. Other government departments consulted, including CE/MN of DSD and D of FS, CHE/NTE of HyD, CBS/NTW of BD and C of P have no objection to or no comments on the application.
- 10.4 Regarding the public comment providing view on the application as stated in paragraph 9 above, the planning considerations and assessments above are relevant.

11. Planning Department’s Views

- 11.1 Based on the assessments made in paragraph 10 and having taken into account the

public comment mentioned in paragraph 9 above, Planning Department considers that the temporary use under application could be tolerated for a period of three years.

- 11.2 Should the Committee decide to approve the subject application, it is suggested that the permission shall be valid until 23.12.2025, and after the said date, the permission shall cease to have effect unless before the said date, the development permitted is commenced or the permission is renewed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 10:00p.m.and 8:00a.m., as proposed by the applicants, is allowed on the Site during the planning approval period;
- (b) 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 23.6.2023;
- (c) in relation of (b) 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 23.9.2023;
- (d) 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 23.6.2023;
- (e) in relation to (d) 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 23.9.2023;
- (f) if the above planning condition (a) 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;
- (g) if any of the above planning condition (b), (c), (d) or (e) 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
- (h) 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 attached at **Appendix III**.

- 11.3 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 the “AGR” zone which is to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. This zone is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

12. Decision Sought

- 12.1 The Committee is invited to consider the application and decide whether to agree, partially agree, or not to agree to the application.
- 12.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition and advisory clauses, if any, to be attached to the permission, and the date when the validity of the permission should expire.
- 12.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicants.

13. Attachments

Appendix I	Application form and SI received on 15.7.2022 and 27.7.2022 respectively
Appendix Ia	FI received on 23.8.2022
Appendix Ib	FI received on 24.10.2022
Appendix Ic	FI received on 2.12.2022
Appendix II	Detailed comments from relevant government departments
Appendix III	Recommended advisory clauses
Appendix IV	Public comment
Drawing A-1	Site layout plan submitted by the applicants
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2022**