

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

**APPLICATION NO. A/NE-MKT/26**

- Applicant** : Ying Shing (Hopewell) Engineering Company Limited
- Site** : Lot 474 in D.D. 90, Lin Ma Hang Road, Man Kam To, New Territories
- Site Area** : About 890m<sup>2</sup>
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse for Storage of Electronic Products and Open Storage of Packaging Tools for a Period of Three Years and Associated Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for a proposed temporary warehouse for storage of electronic products and open storage of packaging tools for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land in “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is formed, fenced off and currently vacant.
- 1.2 The Site is accessible from Lin Ma Hang Road via a local track (**Plan A-2**). According to the applicant, the proposed development comprises two single-storey structures with a total gross floor area of about 455m<sup>2</sup> for warehouse (7m in height) and meter room (2.5m in height) uses. About 100m<sup>2</sup> of the uncovered area (i.e. about 23% of the Site) would be used for open storage purpose. One private car parking space and one loading/unloading space for medium goods vehicles are proposed within the Site. The whole site would be filled to a level of about 1.2m for construction of the temporary structures and circulation. The operation hours of the development is from 9 a.m. to 5 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**.

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

- |     |   |               |
|-----|---|---------------|
| (a) | Application Form with attachments received on 24.4.2023 | (Appendix I)  |
| (b) | Supplementary Information (SI) received on 4.5.2023     | (Appendix Ia) |
| (c) | Further Information (FI) received on 5.6.2023*          | (Appendix Ib) |
- \*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 at **Appendix I**, as summarized below:

- (a) the proposed development would bring job opportunities to the surrounding residents and villagers;
- (b) the applicant undertakes to properly implement the drainage facilities should the application be approved; and
- (c) the proposed use is compatible with the surrounding environment. No adverse environmental and visual impacts from the proposed development are anticipated.

## **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.31A) by posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered mail.

## **4. Background**

Majority of the Site is subject to active planning enforcement action against unauthorized developments (UDs) involving intensification of storage use (including deposit of containers) (No. E/NE-MKT/29 and E/NE-MKT/35). Enforcement Notices (ENs) were issued on 28.11.2022 requiring discontinuation of the UD by 28.1.2023. Subsequent site inspections on 24.4.2023 revealed that only part of the UD has been discontinued. Prosecution action is being considered by the Planning Authority.

## **5. Previous Application**

There is no previous application for the Site.

## **6. Similar Application**

There is no similar application for the same proposed uses in the vicinity of the Site within the same “AGR” zone in the Man Kam To area.

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

7.1 The Site is:

- (a) formed, fenced off and currently vacant; and
- (b) accessible from Lin Ma Hang Road via a local track.

7.2 The surrounding areas are dominated by storage/open storage yards, scattered temporary domestic structures, car parks, vacant land, fallow agricultural land and tree clusters.

## **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, permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

## **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 comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices II** and **III** respectively.

9.2 The following government departments have objection to / adverse comment on the application.

### Agriculture

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation; and
- (b) 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, plant nurseries, etc.

### Traffic

9.2.2 Comments of the Commissioner for Transport (C for T):

- (a) the applicant should provide the following information/assessment for his consideration:

- (i) to advise and substantiate the traffic generation and attraction from and to the Site and the traffic impacts on the nearby road links and junctions;
  - (ii) advise the width of the vehicular access leading to the Site. It is noted that the existing fencing maybe in conflict with the vehicular access (**Plans A-2 and A-4b**). The applicant should review the layout and provide clarification in this regard; and
  - (iii) to advise the provision and management of pedestrian facilities to ensure pedestrian safety.
- (b) the vehicular access between the Site and Lin Ma Hang Road is not managed by this department.

District Officer's Comments

9.2.3 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) the Indigenous Representatives (IIRs) and the Resident Representatives (RRs) of San Uk Ling and Mu Wu object to the application on grounds that the proposed development would induce adverse traffic and environmental impacts on the surrounding areas;
- (b) the incumbent North District Councilor of N16 Constituency and the Chairman of Fung Shui Area Committee have no comment on the application; and
- (c) the RR of Nga Yiu and Ta Kwu Ling District Rural Committee do not reply.

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

On 5.5.2023, the application was published for public inspection. During the statutory public inspection period, a total of four public comments were received. A member of North District Council has no comment on the application. The other three comments from the Conservancy Association, the Kadoorie Farm & Botanic Garden Corporation and an individual object to the application mainly on grounds of not being in line with the planning intention of the "AGR" zone; it is a 'destroy first, develop later' case; and approval of the application would set undesirable precedent.

**11. Planning Considerations and Assessments**

11.1 The application is for a proposed temporary warehouse for storage of electronic products and open storage of packaging tools for a period of three years and associated filling of land at the Site zoned "AGR" on the OZP. The proposed use is considered 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, 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. 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, plant nurseries, etc. There is no strong planning justification in the submission for a departure from the planning intention of “AGR” zone, even on a temporary basis.

- 11.2 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 (CE/MN of DSD) and Director of Environmental Protection (DEP) have no adverse comment on the application from the drainage and environmental perspectives.
- 11.3 The Site is located in an area of rural inland plains landscape character dominated by storage/open storage yards, scattered temporary domestic structures, car parks, vacant land, fallow agricultural land and tree clusters. CTP/UD&L of PlanD has no objection to the application as significant adverse impact on the landscape character and the existing landscape resources within the Site arising from the proposed development is not anticipated.
- 11.4 In traffic terms, C for T advises that information/assessment in relation to traffic generation/attraction, vehicular access and management of pedestrian facilities, etc should be submitted. There is no information in the submission to demonstrate that the proposed development would have no adverse traffic impact on the surrounding areas. Other relevant departments consulted including CE/MN of DSD, D of FS, DEP have no adverse comment on or no objection to the application.
- 11.5 There is no previous application and similar application for the same proposed use within the same “AGR” zone in the vicinity of the Site.
- 11.6 Regarding the public comments objecting to the application as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.2.3 above, government departments’ comments and the planning assessment above are relevant.

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

- 12.1 Based on the assessments made in paragraph 11, and having taken into account the local views conveyed by DO(N), HAD and the public comments mentioned in paragraphs 9.2.3 and 10 respectively, the Planning Department does not support the application for the following reasons:
  - (a) the proposed development 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. It is also 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 such planning intention, even on a temporary basis; and
  - (b) the applicant fails to demonstrate that the proposed development would not generate adverse traffic impact on the surrounding areas.

- 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 23.6.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 5:00 p.m. and 9:00 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 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 23.12.2023;
- (d) in relation to (c) above, the provision of 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 23.3.2024;
- (e) in relation to (d) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (f) 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 4.8.2023;
- (g) the submission of proposals for fire service installations and water supplies for firefighting 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 23.12.2023;
- (h) in relation to (g) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 23.3.2024;
- (i) the submission of a proposal for traffic management measures 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 23.12.2023;
- (j) in relation to (i) above, the implementation of the traffic management measures 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 23.3.2024;
- (k) if any of the above planning condition (a), (b) or (e) 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
- (l) if any of the above planning conditions (c), (d), (f), (g), (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.

### Advisory Clauses

The recommended advisory clauses are 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 the 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 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. Attachments**

<b>Appendix I</b>	Application Form received on 24.4.2023
<b>Appendix Ia</b>	SI received on 4.5.2023
<b>Appendix Ib</b>	FI received on 5.6.2023
<b>Appendix II</b>	Government Department's General Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comments
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
JUNE 2023**