

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/29

- Applicant** : C&L Professional Services Limited
- Site** : Lot 580 (Part) in D.D. 90, Lin Ma Hang Road, Man Kam To, New Territories
- Site Area** : About 395m²
- 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 Engineering Tools and Equipment for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary warehouse for storage of engineering tools and equipment for a period of three years 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 requires planning permission from the Town Planning Board (the Board). The Site is hard-paved, fenced off and currently occupied by containers.
- 1.2 According to the applicant, the proposed development comprises two single-storey structures (about 2.8m to 3m in height) with a total gross floor area of about 120m² for storage of engineering tools and equipment. An area of about 56m² (i.e. about 14% of the Site) in the northeastern part of the Site is proposed for open storage purpose. Two loading/unloading (L/UL) bays for light goods vehicles and one L/UL bay for medium goods vehicle are proposed within the Site. The operation hours of the proposed development are from 9 a.m. to 7 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The Site is accessible via Lin Ma Hang Road from its east (**Plan A-2**). 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 8.6.2023 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 15.6.2023 | (Appendix Ia) |
| (c) | Further Information (FI) received on 21.9.2023* | (Appendix Ib) |
- * *accepted and exempted from the publication and recounting requirements*

- 1.4 On 28.7.2023, the Rural and New Town Planning Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for preparation of FI to address departmental comments.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed at **Appendix Ib**, as summarized below:

- (a) the Site has left vacant for years. The proposed use would better utilize the land resources;
- (b) the proposed structures are for storage of tools and equipment. No toxic and chemicals will be stored at the Site. The proposed development would not induce significant noise or cause nuisance to the nearby residents;
- (c) a protective layer will be placed to separate the storage materials and the ground. Temporary approval will not affect the rehabilitation potential of the Site; and
- (d) no heavy goods vehicles will be entering/exiting the Site. Only minimal traffic arising from the proposed use is anticipated. To ensure pedestrian safety, the gate will be equipped with flashing lights and notice boards. The proposed development would not induce adverse traffic impact on the road network.

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. Background

The Site is subject to active planning enforcement action against an unauthorized development (UD) involving intensification of storage use (No. E/NE-MKT/38). Enforcement Notice was issued on 14.4.2023 requiring discontinuation of the UD by 14.6.2023. As the UD still continued upon expiry of the notice, prosecution action may be followed.

5. Previous Application

There is no previous application for the Site.

6. Similar Applications

There are two similar applications for temporary warehouse and open storage uses within the same “AGR” zone in the Man Kam To area over the past five years, i.e. one is located to the further northeast (No. A/NE-MKT/26) and another one is in the further southwest of the Site (No. A/NE-MKT/25). Both applications were rejected by the Committee in 2023 for being not in line with the planning intention of the “AGR” zone; not comply with the TPB PG-No. 13G in that no previous approval was granted and there was adverse departmental and local objection to the application (only for Application No. A/NE-MKT/25); and failure to demonstrate that the

developments would not induce adverse traffic and/or drainage and environment impacts on the surrounding areas. Details of the similar applications are at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard-paved, fenced off and currently occupied by some containers; and
- (b) accessible via Lin Ma Hang Road from the east.

7.2 The surrounding areas are characterized by temporary domestic structures, active/fallow agricultural land and vacant land with scattered unauthorized storages/open storage use subject to planning enforcement action. To the northeast across Lin Ma Hang Road is Hong Kong Seeing Eye Dog Training School.

8. 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.

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 at **Appendices III** and **IV** 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.

Environmental

9.2.2 Comments of the Director of Environment (DEP):

- (a) does not support the application from environmental perspective because there are sensitive receivers in the vicinity of the Site (nearest residential dwelling being located in about 1m away) (**Plan A-2**) and the proposed use involves the use of heavy vehicles. Environmental nuisance is expected; and
- (b) no environmental complaint has been received for the Site over the past three years.

Landscape

9.2.3 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) according to the aerial photo of 2022, the Site is located in an area of rural inland plains landscape character comprising temporary structures, vegetated areas and tree clusters. With reference to the aerial photo taken in 2022, the Site is occupied by some containers. Comparing the aerial photos between 2006 and 2022 (**Plans A-3a** and **A-3b** respectively), vegetation clearance and hard paving were observed since 2007, and the Site has been used as an open storage since 2020. Change of the landscape character and adverse impact on the existing landscape resources has occurred.

District Officer's Comments

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

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

10. Public Comments Received During Statutory Publication Period

On 16.6.2023, the application was published for public inspection. During the statutory public inspection period, three public comments have been received (**Appendix V**). A member of North District Council indicates no comment on the application. The Kadoorie Farm and Botanic Garden Corporation and an individual object to the application mainly on the grounds

that the Site is the subject of an enforcement case and proliferation of brownfield uses along Lin Ma Hang Road should be avoided.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of engineering tools and equipment for a period of three years at the Site zoned “AGR” on the OZP. The proposed 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, 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. 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 The Site is located in an area of rural inland plains landscape character dominated by temporary domestic structures, active/fallow agricultural land and vacant land with scattered unauthorized storage/open storage use subject to planning enforcement action. The proposed use is considered not compatible with the surrounding environment in the vicinity. CTP/UD&L of PlanD advises that the Site has been used as an open storage since 2020 and vegetation clearance and hard paving works were observed in 2007. Change of the landscape character and adverse impact on the existing landscape resources had been occurred.
- 11.3 DEP does not support the application from environmental perspective as there are sensitive receivers located in close proximity to the Site (the nearest is located 1m away) and the proposed use involves the use of heavy vehicles. Environmental nuisance is expected. Other relevant government departments consulted, including C for T, CE/MN of DSD, DEP and D of FS, have no adverse comment on or no objection to the application.
- 11.4 There are two similar applications for proposed temporary warehouse and open storage uses in the vicinity of the Site within the same “AGR” zone, which were rejected by the Committee in 2023 as detailed in paragraph 6 above. The planning circumstances of the current application are similar to the rejected applications.
- 11.5 Regarding the public comments objecting to the application as detailed in paragraph 10 and the local objections conveyed by DO(N) in paragraph 9.2.4 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 9.2.4 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 environmental 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 10.11.2026. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 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 design for run-in and run-out at Lin Ma Hang Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 10.5.2024;
- (d) in relation to (c) above, the provision of the run-in and run-out at Lin Ma Hang Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 10.8.2024;
- (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 10.5.2024;
- (f) in relation to (e) 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 10.8.2024;
- (g) in relation to (f) above, the implemented drainage facilities should be maintained at all times during the planning approval period;
- (h) 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 15.12.2023;
- (i) 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 10.5.2024;
- (j) in relation to (i) 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 10.8.2024;
- (k) the implementation of the traffic management measures within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 10.8.2024;

- (l) if any of the above planning condition (a), (b) 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; and
- (m) if any of the above planning condition (c), (d), (e), (f), (h), (i), (j) or (k) 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 IV**.

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

Appendix I	Application Form received on 8.6.2023
Appendix Ia	SI received on 15.6.2023
Appendix Ib	FI received on 21.9.2023
Appendix II	Similar Applications
Appendix III	Government Department's General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plans A-3a and A-3b	Aerial Photos
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**