

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MKT/34

<u>Applicants</u>	: Factor Company Limited, Hang Sing Limited and Mr. CHAN Chin Wang represented by Metro Planning & Development Company Limited
<u>Site</u>	: Lots 515 RP and 524 S.B in D.D. 90, Lin Ma Hang Road, Ta Kwu Ling, New Territories
<u>Site Area</u>	: About 1,360m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Man Kam To Outline Zoning Plan (OZP) No. S/NE-MKT/4
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Warehouse for Storage for Construction Materials for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicants seek planning permission for proposed temporary warehouse for storage for construction materials for a period of three years and associated filling of land at the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Man Kam To OZP No. S/NE-MKT/4. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years and filling of land in the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is currently hard-paved, fenced-off and occupied by some vacant temporary structures as well as trees and vegetation.
- 1.2 According to the applicants, the application is submitted to facilitate the relocation of a business operation¹ affected by Yuen Long South New Development Area (YLS NDA) which the original site in Shan Ha Tsuen has been resumed by the Government in November 2022. The affected operation was for storage of construction materials, which involved a site area of about 440m² as claimed by the applicants.
- 1.3 The Site is abutting Lin Ma Hang Road to the south (**Plan A-2**). According to the submission, the proposed use consists of one single-storey temporary structure of not

¹ According to the applicants, the affected brownfield operator was the tenant of one of the applicants (i.e. Hang Sing Limited) at the original site in Shan Ha Tsuen. The affected brownfield operator is one of the operators of the current application to facilitate the relocation of the affected business operation.

exceeding 8.5m in height with a total floor area of not more than 930m² for warehouse use. One loading/unloading space for medium goods vehicle and heavy goods vehicle is proposed within the Site. The operation hours of the proposed use are between 9:00 a.m. and 7:00 p.m. from Mondays to Fridays, with no operation on Saturdays, Sundays and public holidays. The site layout plan submitted by the applicants is shown in **Drawing A-1**.

- 1.4 According to the applicants, an ingress/egress is proposed at the south of the Site and sufficient space will be provided within the Site for manoeuvring of vehicles. A swept path analysis was submitted in support of the application. To ensure no queuing back of vehicles outside the Site, no drop bar and gate will be provided at the Site. Flashing light, traffic signs and light poles will be provided at the ingress/egress of the Site to ensure pedestrian safety.
- 1.5 A revised landscape proposal (**Appendix If**) has been submitted in support of the application. Eleven trees, which are of fair to poor conditions, are identified within the Site. No Old and Valuable Trees or protected species is identified. According to the applicants, four trees are proposed to be retained and seven trees are proposed to be felled. To compensate for the loss of trees, two standard trees will be replanted for compensatory planting, and they will be located at least 2m away from the existing trees to ensure healthy establishment of the trees.
- 1.6 The applicants also apply for regularization of land filling of about 1,330m² (about 98% of the Site) with a depth of around 0.2m (**Drawing A-2**). A drainage proposal (**Drawing A-3**), with provision of surface U-channel and catchpits within the Site, is submitted by the applicants to cater for the stormwater runoff generated by the proposed use and the surrounding catchment. The collected stormwater will be dissipated to the culvert to the north of the Site. 10m will be reserved at the toe of the site hoarding to allow unobstructed flow of surface runoff.
- 1.7 In support of the application, the applicants have submitted the following documents:

(a)	Application Form received on 30.1.2024	(Appendix I)
(b)	Supplementary Planning Statement	(Appendix Ia)
(c)	Supplementary Information (SI) received on 1.2.2024	(Appendix Ib)
(d)	Further Information (FI) received on 25.4.2024*	(Appendix Ic)
(e)	FI received on 6.5.2024*	(Appendix Id)
(f)	FI received on 14.5.2024*	(Appendix Ie)
(g)	FI received on 31.7.2024*	(Appendix If)

** accepted and exempted from publication and recounting requirements*

- 1.8 On 15.3.2024 and 21.6.2024, the Rural and New Town Planning Committee (the Committee) of the Board decided to defer making a decision on the application as requested by the applicants for two months each.

2. Justifications from the Applicants

The justifications put forth by the applicants in support of the application are detailed at **Appendices I to Ig**, as summarized below:

- (a) the proposed use is to facilitate the relocation of brownfield operations (i.e. storage of construction materials) with a valid planning permission (application No. A/YL-TYST/1128²) affected by YLS NDA. The applicants wish to relocate the business to the Site to continue the business operation;
- (b) the applicants have conducted a site search process to identify suitable site for the relocation of the affected operation and the Site is considered most suitable for relocation. The site area (about 1,360m²) and the floor area (not more than 930m²) of the proposed use represent an increase in operational space compared to the original site in Shan Ha Tsuen, addressing the demand for business expansion (i.e. more than 10,000ft²) and facilitating vehicular access to the Site;
- (c) the proposed use, layout, form and scale is considered not incompatible with the surrounding areas where warehouses were commonly found along Lin Ma Hang Road;
- (d) the Site has been left vacant for a long period of time, which has not been rehabilitated for agricultural activities. The proposed use is temporary in nature and would not jeopardize the long-term planning intention of the “AGR” zone;
- (e) there was a similar precedence case (application No. A/NE-MKT/17³) approved by the Committee in the same “AGR” zone;
- (f) no significant adverse impacts in terms of environmental, traffic, drainage, etc. are anticipated. The applicants will strictly follow the ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ (the COP) issued by Environmental Protection Department, comply with the relevant mitigation measures and requirements; and
- (g) no container trailer/tractor will access the Site.

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

The applicants are the sole “current land owner” of the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject of any active enforcement action.

² Application No. A/YL-TYST/1128 for proposed temporary open storage of construction materials and construction machinery, vehicle spare parts and scrap vehicle for a period of three years was approved with conditions by the Committee on 14.1.2022.

³ Application No. A/NE-MKT/17 for proposed temporary rural workshop (timber yard and sawmill) for a period of three years was approved with conditions by the Committee on 30.4.2021 which was subsequently revoked on 30.11.2023 due to non-compliance of the implementation of relevant approval conditions on drainage proposal, fire service installations and water supplies for firefighting, and the environmental mitigation measures. As the current application is for the proposed temporary warehouse for storage for construction materials, the consideration of which is not relevant to the current application.

5. Previous Application

There is no previous application covering the Site.

6. Similar Applications

- 6.1 There were five similar applications (No. A/NE-MKT/25, 26, 29, 31 and 35) for temporary warehouse within the same “AGR” zone in the vicinity of the Site in the past five years (**Plan A-1**). Amongst them, application No. A/NE-MKT/35 located to the southwest of the Site for proposed temporary warehouse was approved by the Committee on 19.7.2024 mainly on considerations that the application was to facilitate relocation of business operations affected by government project (i.e. Kwu Tung North (KTN) NDA) and the Secretary for Development (SDEV) rendered policy support to the application; there were no major adverse departmental comments on the application; and the proposed use was not entirely incompatible with the surrounding uses.
- 6.2 The other four applications (No. A/NE-MKT/25, 26, 29 and 31) were rejected by the Committee/the Board on review in 2023 for the reasons of being not in line with the planning intention of the “AGR” zone; being failed to demonstrate that the proposed uses would not induce adverse traffic, drainage and environmental impacts on the surrounding areas; and/or not complying with Town Planning Board Guidelines No. 13G.
- 6.3 Details of the similar applications are summarized at **Appendix II** and their locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on **Plan A-3** and site photos on **Plans A-4a to A-4c**)

- 7.1 The Site is:
 - (a) hard-paved, fenced-off and currently occupied by some vacant temporary structures as well as trees and vegetation; and
 - (b) abutting Lin Ma Hang Road to the south.
- 7.2 The surrounding areas are of rural character comprising temporary domestic structures, fallow agricultural land, vegetated areas 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, as filling of land may cause adverse drainage and environmental impact on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Bureau/Departments

9.1 Apart from the government bureau/departments as set out in paragraph 9.2 and 9.3 below, other government 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 III and IV** respectively.

9.2 The following government bureau supports the application:

Policy Support

9.2.1 Comments of the SDEV:

- (a) the application is to facilitate relocation of a business operation for warehouse in Yuen Long, which was affected by the YLS First Phase Development;
- (b) according to the applicants, a site search has been conducted with a view of identifying suitable site for re-establishment of the business elsewhere, and the Site is the most suitable relocation site. The applicants also claim that due to operation needs, the area of the Site is larger than its current site cleared by the Government; and
- (c) in view of the above and subject to no adverse comments on land use compatibility and technical aspects from concerned departments, the application is supported from the policy perspective.

9.3 The following government departments have adverse comments on the application:

Agriculture

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

- (a) the Site falls within the “AGR” zone and is generally abandoned or occupied by structures; and
- (b) the 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. As the Site possesses potential for agricultural rehabilitation, the proposed use is not supported from agricultural perspective.

Landscape

9.3.2 Comments from Chief Town Planner/Urban Design & Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) with reference to the site photos taken, the western portion of the Site is hard paved with temporary structures. Some fruit trees of common species in fair condition are observed in close proximity to the temporary structures. The eastern portion of the Site is covered by wild grasses

group of *Musa. spp.* (蕉屬) and undersized trees of self-seeded and undesirable species. The existing trees at the western portion of the Site are in conflict with the proposed structure and land filling of 0.2m concrete;

- (b) according to the aerial photo of 2023, the Site is located in an area of rural inland plains landscape character comprising temporary structures, vegetated areas, clusters of tree groups and woodland within the “Green Belt” zone to the south; and
- (c) having reviewed the revised landscape proposal submitted by the applicants, the proposed treatment on existing trees remains unchanged, i.e. four trees are proposed to be retained and the remaining seven trees are proposed to be felled within the Site. According to the compensatory planting proposal, two trees (i.e. *Schefflera heptaphylla*) are proposed at the northern periphery within the Site. There is concern that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area.

Environmental

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

- (a) according to the COP, the application should not be supported as the proposed use involves the use of heavy vehicles and there are sensitive receivers in the vicinity of the Site (the nearest domestic structure is located in the immediate southwest of the Site) (**Plan A-2**);
- (b) no objection to the filling of land from environmental perspective; and
- (c) no environmental complaint was received for the Site in the past three years.

District Officer's Comments

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

- (a) the Indigenous Inhabitant Representative (IIR) and the Resident Representative (RR) of Muk Wu and the IIR of San Uk Ling object to the application mainly on the grounds that the proposed use would cause adverse traffic impact and environmental nuisance. It could potentially pose safety risks to nearby villagers; and
- (b) the Chairman of Fung Shui Area Committee cum North District Council (NDC) and five members of NDC have no comment on the application.

10. Public Comments Received During Statutory Publication Period

On 6.2.2024, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received (**Appendix V**).

One individual expresses objection to the application for the reasons that the Site was not the subject of any previous application and the proposed use would cause adverse environmental degradation in the area. A member of the NDC indicates no comment on the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage for construction materials for a period of three years and associated filling of land 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 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. DAFC does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, noting that the current application is submitted to facilitate the relocation of brownfield operations affected by YLS NDA, the Site is the most suitable relocation site as identified by the applicants and the increase in site area was due to operation needs, SDEV supports the application subject to no adverse comments on land use compatibility and technical aspects from concerned departments. Taking into account the planning assessments below and with the policy support given by SDEV, sympathetic consideration could be given to the proposed use on a temporary basis of three years.
- 11.2 The proposed use involves land filling with an area of about 1,330m² (about 98% of the Site) by concrete with a depth of around 0.2m. Filling of land within “AGR” zone requires planning permission as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD) has no objection to the application from the public drainage viewpoint, while DEP has no objection to the filling of land from environmental perspective. Should the application be approved, approval condition requiring the applicants to submit and implement the drainage proposal is recommended in paragraph 12.2 below.
- 11.3 The Site, abutting Lin Ma Hang Road to the south, is situated in an area of rural character mainly comprising temporary structures, vegetated areas and tree clusters. The proposed use is considered not entirely incompatible with the surrounding uses. CTP/UD&L, PlanD advises there is a concern that approval of the application may alter the landscape character and degrade the landscape quality of the surrounding area. It is noted that the applicants submitted a tree compensatory proposal with replanting of two trees at the Site. Also, should the application be approved, approval condition requiring the applicants to reinstate the Site to an amenity area is recommended in paragraph 12.2 below.
- 11.4 Having reviewed the FI submitted by the applicants, C for T has no comment on the application from the traffic engineering perspective. DEP does not support the application as the proposed use involves the use of heavy vehicle and environmental nuisance to the sensitive receivers (i.e. temporary domestic structures) in the vicinity of the Site is expected (**Plan A-2**). To minimize any possible environmental nuisance, the applicants will be advised to follow the environmental mitigation measures as set out in the latest COP. Other relevant departments consulted including Director of Fire Services (D of FS) and Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) have no objection to or no adverse comment on the application.
- 11.5 There were five similar applications within the same “AGR” zone in vicinity of the Site in the Man Kam To area in the past five years. Whilst four of them were rejected by the

Committee or the Board on review in 2023 mainly on grounds as detailed in paragraph 6 above, there was a similar application (No. A/NE-MKT/34) related to relocation of brownfield operations affected by the government project approved with conditions by the Committee on 19.7.2024 mainly for the reasons that the application was to facilitate relocation of business operations affected by KTN NDA and SDEV rendered policy support to the application; there was no major adverse departmental comments on the application; and the proposed use was not entirely incompatible with the surrounding uses. The planning circumstances of the current application is similar to those of the approved application. As such, approval of the current application is in line with the Committee's previous decision.

- 11.6 Regarding the adverse public comment mentioned in paragraph 10 and the local comments conveyed by DO(N) of HAD in paragraph 9.3.4, the government department's 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 comments conveyed by DO(N) of HAD and the public comments in paragraphs 9.3.4 and 10 above respectively, the Planning Department considers that the proposed use could be tolerated for a period of three years.
- 12.2 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 20.9.2027. The following approval conditions and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) 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 20.3.2025;
- (b) in relation to (a) above, the implementation of the 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 20.6.2025;
- (c) in relation to (b) above, the implemented drainage facilities at the Site shall be maintained at all times during the planning approval period;
- (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 20.3.2025;
- (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 20.6.2025;
- (f) the implementation of the traffic management measures, as proposed by the applicants, within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 20.6.2025;

- (g) in relation to (f) above, the implemented traffic management measures shall be maintained at all times during the planning approval period;
- (h) if any of the above planning condition (c) 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;
- (i) if any of the above planning condition (a), (b), (d), (e) or (f) 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
- (j) 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 at **Appendix IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed use with associated filling of land 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 intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong justification in the submission to justify a departure from the planning intention, even on a temporary basis.

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 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.
- 13.3 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.

14. Attachments

Appendix I	Application Form with Attachments received on 30.1.2024
Appendix Ia	Supplementary Planning Statement
Appendix Ib	SI received on 1.2.2024
Appendix Ic	FI received on 25.4.2024
Appendix Id	FI received on 6.5.2024
Appendix Ie	FI received on 14.5.2024
Appendix If	FI received on 31.7.2024
Appendix II	Similar Applications
Appendix III	Government Departments' General Comments

Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Proposed Land Filling Plan
Drawing A-3	Drainage Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2024**