

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/167

- Applicant** : Topup Oasis Limited represented by Euro Asia Construction Engineering Limited
- Site** : Lot 755 RP in D.D. 46, Loi Tung, New Territories
- Site Area** : About 103.4 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary shop and services (real estate agency) for a period of 3 years at the application site (the Site). The Site falls within an area zoned “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years within “AGR” zone requires planning permission from the Board notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently vacant, fenced off and covered with grass.
- 1.2 The Site is accessible via a local track branching off from Sha Tau Kok Road – Wo Hang (**Plan A-2**). According to the applicant, the proposed development involves a single-storey temporary structure (not exceeding 2.4 m in height) for real estate agency use, with a total floor area not exceeding 14.8 m². One parking space for private car will be provided at the Site (**Drawing A-1**). The operation hours of the Site are between 9:00 a.m. and 7:30 p.m. from Mondays to Sundays, including public holidays. The proposed layout plan with traffic management measures submitted by the applicant is at **Drawing A-1**.
- 1.3 The Site forms part of the subject of two rejected applications (No. A/NE-MUP 6 & 10) for uses different from the current application. Details are provided in paragraph 5.
- 1.4 In support of the application, the applicant has submitted the following documents:
- | | |
|--|----------------------|
| (a) Application Form with attachments received on 5.5.2022 | (Appendix I) |
| (b) Supplementary Information (SI) received on 11.5.2022 | (Appendix Ia) |
| (c) Further Information (FI) received on 15.6.2022 | (Appendix Ib) |
| (d) FI received on 16.6.2022 | (Appendix Ic) |

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SI and FI submissions at **Appendices I to Ic** as summarised below:

- (a) the proposed development is temporary in nature and would not result in any irreversible impact on the long-term planning intention of the “AGR” zone;
- (b) the proposed use is compatible with adjacent land uses which comprise mainly rural landscape and village type development, and would not generate adverse traffic, environmental and drainage impacts on the area;
- (c) the proposed development would provide property agency service for the North District area; and
- (d) traffic signage will be provided at the entrance for pedestrian safety (**Drawing A-1**).

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 Section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by obtaining consents of the current land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to any active enforcement actions.

5. **Previous Applications**

- 5.1 The Site forms part of the subject of two previous applications (No. A/NE-MUP/6 & 10) for temporary open storage of construction materials submitted by different applicants. They were rejected by the Board on 30.6.1995 on review and by the Committee on 1.12.1995 respectively mainly on grounds that the development was not in line with the planning intention of the “AGR” zone; not compatible with surrounding land uses which are rural in character; and setting of undesirable precedent for other similar applications.
- 5.2 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are two similar applications within the “AGR” zone in the vicinity of the Site in the Man Uk Pin area. Applications No. A/NE-MUP/152 & 154 for proposed shop and services (selling of agricultural products) were rejected by the Committee on 4.9.2020 and 22.1.2021 respectively mainly on grounds that the development was not in line with the planning intention of the “AGR” zone; adverse traffic impacts on surrounding areas; and setting of undesirable precedent for other similar applications.
- 6.2 Details of the similar applications are summarised 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) vacant, fenced off and covered with grass; and
 - (b) accessible via Sha Tau Kok Road – Wo Hang (**Plan A-2**).
- 7.2 The surrounding areas have the following characteristics:
 - (a) to the north is Ng Tung River, across which are some fallow agricultural land intermixed with vacant land and temporary domestic structures;
 - (b) to the east are mainly unused and vacant land; and
 - (c) to the south is Sha Tau Kok Road – Wo Hang, across which are some village houses in Loi Tung Village.

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 comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.
- 9.2 The following government departments have objection to/reservation on the application.

Agriculture

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

- (a) the application is not supported from agricultural perspective;
- (b) the Site possesses potential for agricultural rehabilitation, and agricultural activities are active in the vicinity; and
- (c) agricultural infrastructures such as road access and water source are also available in the vicinity of the Site, which can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc.

District Officer's Comments

9.2.2 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- he has consulted the locals regarding the application. The Chairman of Sha Tau Kok District Rural Committee and the Indigenous Inhabitant Representative (IIR) of Loi Tung object the application on the ground that the proposed development would lead to adverse traffic impacts along Sha Tau Kok Road. The incumbent North District Council member of subject constituency, the Chairman of Lung Shan Area Committee, the Resident Representative (RR) of Man Uk Pin, the IIR and RR of Loi Tung have no comments.

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

On 13.5.2022, the application was published for public inspection. During the statutory public inspection period, three public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Two individuals raise objection to the application mainly on grounds that the proposed development would cause adverse environmental impacts on the surrounding areas; increase fire risk; pose threats to nearby villagers; and commercial activities should be confined within the “Village Type Development” zone to the south of the Site.

11. Planning Consideration and Assessments

- 11.1 The application is for a proposed temporary shop and services (real estate agency) for a period of three years at the Site zoned “AGR” on the OZP. The temporary development is considered 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. DAFC does not support the application from agricultural point of view, as the Site possesses potential for agricultural rehabilitation. Given that the proposed development only involves a single temporary structure with a floor area of about 15 m² and temporary in nature for a period of three years, it is considered that approval of the application on a temporary basis would not jeopardise the long-term planning intention of the “AGR” zone.

- 11.2 The Site is situated in an area of rural landscape character mixed with farmlands, clusters of trees, temporary domestic structures and village houses. The applied use is considered not entirely incompatible with the surrounding environment. Significant adverse impacts on existing landscape resources are not anticipated. CTP/UD&L, PlanD has no objection from landscape planning perspective. Having reviewed the FI submitted by the applicant, C for T has no objection to the application from traffic engineering perspective subject to the implementation of traffic management measures as proposed by the applicant. DEP has no objection to the application and advises that the applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses” to minimise any potential environmental impacts. Other relevant government departments consulted, including CE/MN, DSD and D of FS, have no adverse comment on or no objection to the application.
- 11.3 The Site forms part of the subject of two previous applications for different uses submitted by different applicants. There are two similar applications (No. A/NEMUP/152 & 154) for proposed temporary shop and services (selling of agricultural products) rejected in 2020 and 2021 respectively mainly on grounds that the applicant failed to demonstrate that the development would not cause adverse traffic impacts on the surrounding areas. For the current application, C for T has no objection to the application subject to the implementation of traffic management measures. As such, the planning circumstances of the current application are different from the similar rejected applications.
- 11.4 Regarding the local objection as conveyed by DO(N), HAD and the public comments as detailed in paragraphs 9.2.2 and 10 above respectively, government departments’ comments and 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 local objection conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.2.2 and 10 above respectively, the Planning Department has no objection to the application.
- 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 24.6.2025. The following conditions of approval 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 24.12.2022;
- (b) in relation to (a) 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 24.3.2023;

- (c) 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 24.12.2022;
- (d) in relation to (c) 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 24.3.2023;
- (e) the implementation of traffic management measures, as proposed by the applicant, within **9** months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 24.3.2023; and
- (f) if any of the above planning conditions (a), (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.

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 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 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 for a departure from such 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 applicant.

14. Attachments

Appendix I	Application form with attachments received on 5.5.2022
Appendix Ia	SI received on 11.5.2022
Appendix Ib	FI received on 15.6.2022
Appendix Ic	FI received on 16.6.2022
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Proposed layout plan with traffic management measures
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
JUNE 2022**