

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/185

- Applicant** : Best Holly Limited represented by R-riches Property Consultants Limited
- Site** : Lots 107 (Part), 109 (Part), 115 (Part), 116 (Part), 117, 118, 119, 120, 121, 122, 123, 124 S.A, 124 S.B, 125, 126 (part), 127 (Part), 128 (Part), 131, 133 (Part), 134, 135 (Part), 136, 141, 142, 143, 144 RP (Part), 148, 150, 151 and 152 in D.D. 38 and Adjoining Government Land, Man Uk Pin, Sha Tau Kok, New Territories
- Site Area** : 11,698m² (about) (includes Government Land (GL) of about 2,822m²)
- Lease** : (i) Block Government Lease (demised for agricultural use) (about 76%)
(ii) GL (about 24%)
- Plan** : Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
- Zonings** : (i) “Residential (Group D)” (“R(D)”) (about 98.3% of the Site)
(ii) “Agriculture” (“AGR”) (about 1.7% of the Site)¹
- Application** : Proposed Temporary Warehouse with Ancillary Facilities 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 with ancillary facilities for a period of three years and associated filling of land at the application site (the Site) which falls largely within an area zoned “R(D)” on the approved Man Uk Pin 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)². The Site is currently being used for an open storage of construction materials without valid planning permission.
- 1.2 The Site is accessible from its northwest via a local track leading to Sha Tau Kok Road – Wo Hang (**Plan A-2**). According to the applicant, the applied use comprises six 1 to

¹ A narrow strip of the Site of about 193.9m² (i.e. about 1.7% of the total site area) falls within an area zoned as “AGR” on the approved Man Uk Pin OZP No. S/NE-MUP/11, which could be regarded as minor boundary adjustment and will not be included in the planning assessment on the proposed warehouse and ancillary facilities and the associated filling of land.

² Planning permission is not required for filling of land within the area zoned “R(D)” on the OZP.

2-storey temporary structures (building height of about 3.5m to 13m) with a total floor area of about 15,105m² for warehouse, rain shelter for loading/unloading, site office, utilities and meter room, washroom and caretaker office uses. Four private car parking spaces, two medium goods vehicle loading/unloading bays/lay-bys and two container vehicle loading/unloading bays/lay-bys are proposed in the Site. The whole Site would be filled at a level of not more than 0.2m for construction of the temporary structures and circulation area. The operation hours of the development is from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout and land filling area plans submitted by the applicant are shown in **Drawings A-1 and A-2** respectively.

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

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|-----|---|----------------------|
| (a) | Application Form with attachments received on 28.3.2023 | (Appendix I) |
| (b) | Further Information (FI) received on 24.4.2023 | (Appendix Ia) |
| (c) | FI received on 9.5.2023 | (Appendix Ib) |

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I** and summarized below:

- (a) the applied use would better utilize precious land resources and create job opportunities in the New Territories;
- (b) the surrounding areas are predominantly intermixed with storage and workshop uses. The applied use is not incompatible with the surrounding environment;
- (c) the applied use is temporary in nature and thus would not jeopardize the long-term planning intentions of the “R(D)” and “AGR” zones;
- (d) the applied use intends to cater for the demand for cross-boundary trade; and
- (e) the applied use will not induce adverse traffic impacts or cause significant nuisance to the surrounding areas. Besides, adequate mitigation measures will be provided after obtaining planning permission from the Board.

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 publishing notices in local newspapers and sending notice to the Sha Tau Kok District Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4. Background

The Site is not the subject of any active planning enforcement case.

5. Previous Application

There is no previous application concerning the Site.

6. Similar Application

There is no similar application for the same applied use within the same “R(D)” zone in the vicinity of the Site in Man Uk Pin area.

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

7.1 The Site is:

- (a) mainly used for open storage of construction materials;
- (b) partly occupied by temporary structures at the northeastern tip; and
- (c) accessible via a local track to its northwest leading to Sha Tau Kok Road – Wo Hang.

7.2 The surrounding areas are predominated by car repairing workshops, warehouses, temporary structures and open storage uses with some fallow agricultural land, and to the immediate south and southeast are tree clusters and woodland. Some domestic structures are found to the northeast and west of the Site.

8. Planning Intention

The planning intention of the “R(D)” zone is intended primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

9. Comments from Relevant Government Departments

9.1 Apart from the government department 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 at **Appendices II** and **III** respectively.

9.2 The following government department has the following comments on the application:

Land Administration

9.2.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) no consent is given for inclusion of GL (about 2,822m² mentioned in 3(c) of the planning application form) in the Site. The GL within the Site, which is under the management of this office, has been fenced off without any permission. Any occupation of GL without government's prior approval is an offence. The lot owner(s)/the applicant should immediately cease any occupation of GL and this office reserves the rights to take necessary land control action against the illegal occupation of GL without separate notice; and
- (b) there are unauthorized structures erected on Lot Nos. 115, 116, 142, 144RP, 148, 150, 151, 152 and adjoining GL in D.D. 38. An unauthorized structure was found encroaching on the adjoining GL and Lot No. 149 in D.D. 38 outside the Site (**Plan A-2**). The existing structures on site do not tally with the details of the proposed structures submitted in the planning application and are in breach of the lease conditions of the lots. The lot owners should immediately rectify the lease breaches and this office reserves the rights to take necessary lease enforcement action against the lease breaches without separate notice.

9.3 The following government department has relayed the local views on the application:

District Officer's Comments

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

- (a) the Resident Representative (RR) of Man Uk Pin and incumbent North District Councilor of N16 Constituency object the application; and
- (b) the Chairman of Sha Tau Kok District Rural Committee, the Indigenous Inhabitant Representative (IIR) of Man Uk Pin, the IIR and the RR of Loi Tung have no comment; while the Chairman of Lung Shan Area Committee has no comment but indicates that better transport infrastructures should be provided to avoid traffic congestion in the vicinity of the Site.

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

On 4.4.2023, the application was published for public inspection. During the statutory public inspection period, two comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. An individual raises objection to the application on grounds that the applied use might lead to adverse environmental impacts to the nearby green belt.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary warehouse with ancillary facilities for a period of three years and associated filling of land at the Site largely zoned “R(D)”. The applied use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known development proposed at the Site and it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 The applied use is considered not incompatible with the surrounding areas which are mainly surrounded by car repairing workshops, warehouses, temporary structures, farmlands, vegetated areas, clusters of tree groups and woodland. CTP/UD&L of PlanD has no objection to the application and considers that significant adverse landscape impact arising from the development is not anticipated. C for T also has no comment to the application from traffic perspective. There are sensitive receivers (i.e. domestic structures in the vicinity of the Site (**Plan A-2**)). However, there was no environmental complaint against the Site in the past three years. To address the concern of DEP on possible environmental nuisance, approval conditions restricting the operation hours and relevant mitigation measures of the Site are recommended. The applicant would also be advised to follow the environmental mitigation measures as set out in the revised “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. Although DLO/N of LandsD has comments on the application regarding the occupation of Government land (GL) and the presence of unauthorized structures erected on the Site, which are subject to land control and lease enforcement actions respectively, the applicant indicates that they will liaise with LandsD to rectify/regularize the illegal occupation of GL and lease breaches (**Appendix Ib**). Other relevant departments consulted, including CE/MN of DSD, CE/C of WSD and D of FS, etc. have no adverse comment on or no objection to the application.
- 11.3 Regarding the public comments received on the application as detailed in paragraph 10 above and comments conveyed by DO(N), government departments’ comments and 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 public comments mentioned in paragraph 10, the Planning Department considers that the temporary use under the application 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 19.5.2026. 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. from Mondays to Saturdays, 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 impact assessment 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 19.11.2023;
- (d) in relation to (c) above, the implementation of the mitigation measures identified in the approved drainage impact assessment 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 19.2.2024;
- (e) in relation to (d) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) 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 19.11.2023;
- (g) in relation to (f) 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 19.2.2024;
- (h) the provision of 2.5m high solid metal wall with thickness of 5mm along the site boundary, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 19.2.2024;
- (i) if any of the above planning conditions (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
- (j) if any of the above planning conditions (c), (d), (f), (g) or (h) 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**.

12.3 There is no strong planning reason to recommend rejection of the application.

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 Attachment received on 28.3.2023
Appendix Ia	FI received on 24.4.2023
Appendix Ib	FI received on 9.5.2023
Appendix II	Government Departments' General Comments
Appendix III	Recommended Advisory Clauses
Appendix IV	Public Comments
Drawings A-1 and 2	Layout Plan and Land Filling Area Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and 4b	Site Photos

**PLANNING DEPARTMENT
MAY 2023**