

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MUP/211

<u>Applicant</u>	:	Top Brilliant Holdings Ltd. represented by Honest Land Surveys Company
<u>Site</u>	:	Lots 815 and 816 S.B RP in D.D. 46, Sha Tau Kok, New Territories
<u>Site Area</u>	:	About 1,165.9m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Man Uk Pin Outline Zoning Plan (OZP) No. S/NE-MUP/11
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Logistics Centre for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary logistics centre 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 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 within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is fenced-off, partly covered with vegetation and largely vacant.
- 1.2 The Site is accessible to Sha Tau Kok Road – Wo Hang (**Plan A-1**). According to the applicant, the proposed use comprises three single-storey structures (not more than 9m) for logistics centre use each with a floor area of not more than about 228m², accounting for a total floor area of about 684m². The logistics centre will mainly use for storage of hardware parts and no dangerous goods will be involved. Two loading/ unloading (L/UL) bays for heavy goods vehicles and a private car parking space will be provided at the Site. The applicant also applies for filling of land for the entire Site by concrete with about 0.2m in depth. The proposed operation hours are between 9 a.m. and 7 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 According to the applicant, prior notification is required for vehicles entering the Site and no queuing of vehicle outside the Site is anticipated. Staff will be deployed to manage the traffic entering and leaving the Site, and warning sign will be erected to ensure pedestrian safety. The applicant submits a run-in/out proposal and advises that the run-in/out of the Site will be constructed in accordance to the standards of Transport

Department (TD) and Highways Department (HyD). The applicant also submits a drainage proposal with proposed drainage channels in support of the application.

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

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| (a) Application Form with attachments received on 27.11.2024 | (Appendix I) |
| (b) Supplementary Information (SI) received on 30.11.2024 | (Appendix Ia) |
| (c) SI received on 4.12.2024 | (Appendix Ib) |
| (d) Further Information (FI) received on 10.1.2025* | (Appendix Ic) |
| (e) FI received on 14.1.2025* | (Appendix Id) |
| (f) FI received on 22.1.2025* | (Appendix Ie) |
| (g) FI received on 12.2.2025* | (Appendix If) |

**accepted and exempted from the publication and recounting requirements*

1.5 On 24.1.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's request to defer making a decision on the application for two months.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form, SIs and FIs at **Appendices I to If**, as summarised below:

- (a) there is a strong demand but a limited supply for land for open storage and warehouse uses in Sha Tau Kok area. The Site's proximity to Sha Tau Kok Road and Heung Yuen Wai Highway makes it a suitable location for a logistics centre;
- (b) the Site falls within the Category 2 areas under the Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No 13G), where planning permission could be granted subject to no adverse departmental comments;
- (c) no container truck or tracker will be allowed to enter/store at the Site. Sufficient manoeuvring space at the run-in/out will be provided to avoid impact on traffic flow;
- (d) the proposed use is compatible with the surrounding areas comprising temporary warehouse use. There will be no operation on holidays or at night times. Impacts on drainage, noise and environment are minimal;
- (e) there was an approved similar application in the vicinity of the Site. The proposed use is small in scale, approval of the application on a temporary basis will not jeopardize the long term planning; and
- (f) the applicant undertakes to remove the existing unauthorised structures at the Site and cease the occupation of Government Land (GL).

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. 31B)

by notifying the “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

- 4.1 The Site was the subject of a planning enforcement case against an unauthorized development (UD) involving storage use (including deposit of containers). An Enforcement Notice (EN) was issued on 17.4.2020. Subsequent site inspection revealed that the UD was discontinued. The compliance notice was issued on 1.12.2020.
- 4.2 A Reinstatement Notice (RN) was issued on 15.3.2021. Subsequent site inspection revealed that the Site was reinstated. The compliance notice for RN was issued on 20.10.2021.

5. Town Planning Board Guideline

TPB PG-No 13G promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

6. Previous Application

The Site is not the subject of any previous application.

7. Similar Application

- 7.1 There was a similar application (No. A/NE-MUP/193) for proposed temporary logistics centre for a period of three years and associated filling of land within the same “AGR” zone in the vicinity of the Site in the past five years. The application was approved with conditions by the Committee on 15.3.2024 mainly on the considerations that the application site fell within the Category 2 areas and the application generally complied with TPB PG-No. 13G in that there was no adverse departmental comment or their concerns could be addressed by relevant approval conditions.
- 7.2 Details of the similar application are summarised at **Appendix III** and its location is shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced-off, partly covered with vegetation and largely vacant; and
- (b) accessible to Sha Tau Kok Road – Wo Hang.

8.2 The surrounding areas are of rural character mainly comprising warehouses, residential structures, and active and fallow agricultural land. A logistics centre (with valid planning permission under Application No. A/NE-MUP/193) is located to the immediate east and

south of the Site.

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/ Departments

- 10.1 Apart from the government departments as set out in paragraph 10.2 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 IV** and **V** respectively.
- 10.2 The following government departments object to or do not support the application:

Land Administration

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

- (a) she objects to the application;
- (b) the Site comprises Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government. No right of access via GL is granted to the Site;
- (c) the following irregularity covered by the subject planning application has been detected by her office:

unauthorised structures within the said private lots covered by the planning application

LandsD has reservation on the planning application since there are unauthorised structures on the private lots which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD;

- (d) the following irregularity not covered by the subject planning application has been detected by her office:

unlawful occupation of GL not covered by the planning application

the GL adjoining the private lots has been fenced off without permission.

The GL being illegally occupied is not included in the application. The applicant should clarify the extent of the Site. Any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (e) the owner/applicant should remove the unauthorised structures and cease the illegal occupation of GL immediately without waiting for planning permission;
- (f) the lot owner/applicant shall either (i) cease the illegal occupation of the GL not covered by the subject planning application immediately; or (ii) include the adjoining GL being illegally occupied in the subject planning application for the further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as aforesaid required, apply to her office for Short Term Waiver (STW) and Short Term Tenancy (STT) to permit the structures erected/to be erected and the occupation of the GL. The applications for STW and STT will be considered by the Government in its capacity as a landlord and there is no guarantee that they will be approved. The STW and STT, if approved, will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee/rent from the first date of the unauthorised structures were erected/occupation of GL as well as administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered;
- (g) unless and until the unlawful occupation of GL is duly rectified by the lot owner/applicant or entirely included in the subject planning application, her office objects to the application which must be brought to the attention of the Board when they consider the application; and
- (h) the lot owner/ applicant should comply with all the land filling requirements imposed by relevant Government departments. GL should not be disturbed unless with prior approval.

Agriculture

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

the Site falls within the "AGR" zone and is abandoned. 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.

11. Public Comments Received During Statutory Publication Period

On 6.12.2024, the application was published for public inspection. During the statutory public inspection period, four comments were received (**Appendix VI**). One comment from an individual objects to the application mainly on the grounds that the Site has been used for brownfield operation without planning permission; there is farming activity in the area; the proposed land filling is not compatible with the “AGR” zone; and brownfield operations should not be allowed along Sha Tau Kok Road. One comment from Kadoorie Farm & Botanic Garden Corporation provides views that the Board should take into account whether the Site is subject to on-going enforcement case. Two comments from a member of the North District Council and an individual indicate no comment on the application.

12. Planning Considerations and Assessments

- 12.1 The application is for proposed temporary logistics centre for a period of three years and associated filling of land within the “AGR” zone on the OZP (**Plan A-1**). 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, taking into account the planning assessment below, there is no objection to the proposed use on temporary basis of three years with associated filling of land.
- 12.2 The application involves filling of land for the entire Site by concrete with about 0.2m in depth. 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, DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environmental perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application.
- 12.3 The Site is situated in an area of rural character mainly comprising warehouses, residential structures, and active and fallow agricultural land. To the east and south is a temporary logistics centre with valid planning permission. The Chief Town Planning/Urban Design and Landscape of Planning Department has no adverse comment on the application from the landscape planning perspective and advises that significant adverse impact on the existing landscape resources within the Site arising from the proposed use is not anticipated.
- 12.4 The Site falls within the Category 2 areas under the TPB PG-No. 13G. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate or if required, should be submitted to demonstrate that the proposed uses

would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.5 The application generally complies with the TPB PG-No. 13G in that relevant departments consulted, including CE/MN, DSD, DEP, Chief Highway Engineer/New Territories East of HyD, Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of the concerned departments, relevant approval conditions are recommended in paragraph 12.2 below. Regarding DLO/N, LandsD's concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.6 There was a similar application (No. A/NE-MUP/193) for proposed temporary logistics centre for a period of three years and associated filling of land within the same "AGR" zone adjoining the Site. The application was approved with conditions by the Committee on 15.3.2024 mainly on the considerations as detailed in paragraph 7.1 above. The planning circumstances of the current application are similar to those of the approved application. As such, approval of the current application is in line with the Committee's previous decision.
- 12.7 Regarding the public comments as detailed in paragraph 11, the government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 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 28.2.2028. 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 28.8.2025;
- (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 28.11.2025;
- (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 28.8.2025;

- (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 28.11.2025;
- (f) the submission of the design of vehicular run-in/run-out to the Site within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 28.8.2025;
- (g) in relation to (f) above, the provision of vehicular run-in/run-out to the Site within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 28.11.2025;
- (h) if the above planning condition (c) 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), (f) or (g) 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 the expiry of the planning permission, the reinstatement of the Site including the removal of fill materials and hard paving and grassing of the Site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix VI**.

- 13.3 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 planning justification in the submission for a departure from the planning intention, even on a temporary basis.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachment received on 27.11.2024
Appendix Ia	SI received on 30.11.2024
Appendix Ib	SI received on 4.12.2024
Appendix Ic	FI received on 10.1.2025
Appendix Id	FI received on 14.1.2025
Appendix Ie	FI received on 22.1.2025
Appendix If	FI received on 12.2.2025
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Similar Application
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2025**