

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/NE-TKLN/94**

**Applicant** : Mr. LI Ming Leung

**Site** : Lots 1650 (Part) and 1657 (Part) in D.D. 78, Ta Kwu Ling North, New Territories

**Site Area** : About 430m<sup>2</sup>

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Ta Kwu Ling North Outline Zoning Plan (OZP) No. S/NE-TKLN/2

**Zoning** : “Agriculture” (“AGR”)

**Application** : Temporary Filling of Land for Vehicular Access for Permitted Agricultural Use for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary filling of land for vehicular access for permitted agricultural use for a period of three years at the application site (the Site) zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP for “AGR” zone, ‘Agricultural Use’ is a Column 1 use which is always permitted, whilst filling of land requires planning permission from the Town Planning Board (the Board)<sup>1</sup>. The Site is currently vacant and hard-paved without valid planning permission.
- 1.2 The Site is accessible via a local track leading to Heung Yuen Wai Highway (**Plan A-2**). According to the applicant, the application involves filling of land at the entire Site by asphalt of about 0.3 in depth to provide vehicular access to the proposed farm adjoining the Site (**Drawing A-1**). The applicant advises that no heavy vehicle will be allowed to access the Site and vegetables and fruit trees will be grown in the proposed farm. No detailed information on the layout or operation of the proposed farm and the justification on the alignment of the vehicular access in relation to the proposed farming activities has been provided. The land filling 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 attachment received on 27.1.2025 | <b>(Appendix I)</b>  |
| (b) Further Information (FI) received on 10.2.2025*        | <b>(Appendix Ia)</b> |
| (c) FI received on 21.2.2025*                              | <b>(Appendix Ib)</b> |
- \* *accepted and exempted from publication and recounting requirements*

---

<sup>1</sup> This restriction, however, does not apply to filling of land specifically required under prior written instructions of Government department(s) or for the purposes of (i) laying of soil not exceeding 1.2m in thickness for cultivation; or (ii) construction of any agricultural structure with prior written approval issued by the Lands Department.

## **2. Justifications from the Applicant**

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

- (a) the filling of land for vehicular access is intended to provide easy access to the applicant's farm; and
- (b) taking into account his old age and whether the farm would continue its operation in future, the applicant would like to apply for filling of land on a temporary basis.

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

The applicant is one of the two “current land owners” of the Site. The applicant 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. 31B) by obtaining consent of another “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

The Site partly falls within an active enforcement case No. E/NE-TKLN/80 regarding unauthorized storage use. Enforcement Notice was issued on 29.5.2024 requiring discontinuation of the unauthorized development (UD) by 29.7.2024. After discontinuance of the UD, the Reinstatement Notice (RN) was subsequently issued on 13.12.2024 requiring the notice recipients to (i) remove the leftovers, debris and fill materials (including the hard-paving) on the land; and (ii) to grass the land by 13.3.2025. The Site will be monitored according to the established procedures. It is also noted that the Site boundary only covers part of the RN boundary.

## **5. Previous Application**

The Site is not subject to any previous application.

## **6. Similar Application**

There is no similar application within the same “AGR” zone in the vicinity of the Site in the past five years.

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

7.1 The Site is:

- (a) currently vacant and hard-paved without valid planning permission;
- (b) accessible via a local track leading to Heung Yuen Wai Highway; and
- (c) directly accessible to the structures located to the east of the Site (**Plan A-2**).

- 7.2 The surrounding areas are of rural character comprising mainly warehouses, domestic structures, vacant land and active agricultural land.

## **8. Planning Intention**

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agriculture 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 within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

## **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 objects to the application:

### **Land Administration**

- 9.2.1 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 Government land (GL) is granted to the Site;
- (c) according to her record, no structure for “Permitted Agricultural Use” was granted for the application lots as claimed in the Application Form and no structure is proposed in the planning application. However, there is an unauthorised structure on Lot No. 1657 in D.D. 78;
- (d) the following irregularity not covered by the planning application has been detected by her office:

#### **unauthorised structure within the private lot not covered by the planning application**

LandsD has reservation on the planning application since there is an unauthorised structure on Lot No. 1657 in D.D. 78 which is already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD; and

- (e) unless and until the unauthorised structures are duly rectified by the lot owners, her office objects to the application which must be brought to the attention of the Board when they consider the application; and
- (f) the applicant should comply with all the land filling requirements imposed by relevant Government departments. GL should not be disturbed unless with prior approval.

## **10. Public Comments Received During Statutory Publication Period**

On 7.2.2025, the application was published for public inspection. During the statutory public inspection period, three comments were received (**Appendix IV**). A comment from an individual objects to the application mainly on the grounds that the objective of the application is to open up the lots for brownfield use; the vehicular access is intended to be on permanent instead of temporary basis; there is a lack of justification for approval; and the Site is close to “Green Belt” zone. A comment from Kadoorie Farm & Botanic Garden Corporation suggests the Board to investigate the current site status and history before making a decision. The remaining comment from a member of the North District Council indicates no comment on the application.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary filling of land for vehicular access for permitted agricultural use for a period of three years at the Site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agriculture land/farm/fish ponds for agricultural purposes and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. According to the applicant, the filling of land is to provide vehicular access to the proposed farm adjoining the Site. The extent of the proposed farm is shown in **Drawing A-1** and vegetables and fruit trees will be grown in the proposed farm. However, no detailed information on the layout or operation of the proposed farm and the justification on the alignment of the vehicular access in relation to the proposed farming activities has been provided. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is located in an area of rural character mainly comprising warehouses, domestic structures, vacant land and active agricultural land. The applied filling of land is considered not entirely incompatible with the surrounding areas. The Chief Town Planner/Urban Design and Landscape of Planning Department has no adverse comment on the application from the landscape planning perspective. However, it is noted that the vehicular access is not only traversing the proposed farm, but also directly leading to the warehouse structures located to the east of the Site (**Plan A-2**).
- 11.3 According to the applicant, the application involves filling the entire Site with asphalt of about 0.3m in depth for a vehicular access. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from the public drainage and environmental perspectives. As the Site is zoned “AGR” and recommended by the Director of Agriculture, Fisheries and Conservation (DAFC), 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.

- 11.4 DLO/N, LandsD objects to the application as there is unauthorised structure within Lot 1657 in D.D. 78 not covered by the planning application. Other relevant government departments consulted, including the DAFC, Commissioner for Transport, Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application.
- 11.5 Regarding the public comments on the application as detailed in paragraph 10 above, the 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 public comments in paragraph 10 above, the Planning Department does not support the application for the following reason:

the filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agriculture land/farm/fish ponds for agricultural purposes and 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.

- 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 14.3.2028. 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 14.9.2025;
- (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 14.12.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) 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;
- (e) if any of the above planning condition (a) or (b) 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
- (f) upon 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 III**.

## **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**

<b>Appendix I</b>	Application Form with Attachments received on 27.1.2025
<b>Appendix Ia</b>	FI received on 10.2.2025
<b>Appendix Ib</b>	FI received on 21.2.2025
<b>Appendix II</b>	Government Departments' General Comments
<b>Appendix III</b>	Recommended Advisory Clauses
<b>Appendix IV</b>	Public Comments
<b>Drawing A-1</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MARCH 2025**