

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/698

Applicant : Mr. LEE Hoi Ming

Site : Lot 1110 S.A (Part) in D.D. 82, Ping Che Road, Ta Kwu Ling, New Territories

Site Area : About 431.2m²

Lease : Block Government Lease (demised for agricultural use)

Plan : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14

Zoning : “Agriculture” (“AGR”)

Application : Filling of Land for Permitted Agricultural Use

1. The Proposal

- 1.1 The applicant seeks planning permission to regularize the filling of land (about 0.15m in thickness) for permitted agricultural use on the application site (the Site) (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the Notes of the OZP, ‘agricultural use’ is a Column 1 use within the “AGR” zone which is always permitted. However, any filling of land within “AGR” zone requires planning permission from the Town Planning Board (the Board). Majority of the Site is vacant and covered with grasses while part of the Site has been hard paved with concrete without valid planning permission.
- 1.2 According to the applicant, the filling of land is to facilitate a permitted agricultural use (i.e. sea grapes cultivation). About 24% of the Site (i.e. 101.8m²) has been filled with concrete of about 0.15m in depth to support the temporary structures erected for agricultural purpose (**Drawing A-1**). The proposed sea grapes cultivation comprises four on-site converted containers for sea grape incubation and cultivation and a staff changing room, a toilet, a switch room, and two canopies as shelter. Two parking spaces for private cars would be provided at the southern portion of the Site. The Site is accessible from Ping Che Road via a local track (**Plan A-2**). The proposed land filling area plan and layout plan 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 5.5.2022 | (Appendix I) |
| (b) | Supplementary Information (SI) received on 13.5.2022 | (Appendix Ia) |
| (c) | Further Information (FI) received on 7.9.2022 | (Appendix Ib) |
| (d) | FI received on 5.10.2022 | (Appendix Ic) |

1.4 On 24.6.2022, the Committee agreed to the applicant's request to defer making a decision on the application for two months to allow more time for the applicant to address departmental comments. The FI submission was received on 7.9.2022 and the application is scheduled for consideration by the Committee at this meeting.

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** and summarized below:

- (a) the Site would be used for the cultivation of sea grapes, which is a new agricultural product in Hong Kong. The sea grapes would be incubated in a water tank which requires constant temperature in a temperature-controlled container;
- (b) the filling of land provides a solid foundation to support the erection of converted containers with heavy water tanks for the cultivation process; and avoid land subsidence caused by flooding in rainy season;
- (c) the application is to regularize the unauthorized land filling activity at the Site, and no storage activities will be carried out at the Site. Majority of the Site has already been reinstated and grassed, the remaining filled land (24% of the Site) is for the erection of structures in support of the permitted agricultural use; and
- (d) the tank water would be recirculated and reused, only 1% of the water would be discharged for watering of the surrounding grasses and plants. There would be no adverse drainage and sewerage impacts to the surrounding areas. The applicant undertakes to comply with all approval conditions to the satisfaction of relevant government departments upon the granting of planning approval from the Board.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is the subject of an active planning enforcement case against unauthorized storage use with the Enforcement Notice (EN) issued on 5.12.2019. The unauthorized storage use was subsequently discontinued. A Compliance Notice for EN and a Reinstatement Notice (RN) requiring reinstatement of the concerned land (i.e. to remove the leftovers, debris and hard paving (including concrete) on the land and to grass the land) were issued on 25.6.2021 and 30.6.2021

respectively. Site inspections after the expiry of RN on 30.9.2021 revealed that the RN were not fully complied with, prosecution actions may be taken.

5. Previous Application

- 5.1 The Site is the subject of a previous application (No. A/NE-TKL/638) for proposed temporary warehouse and office for a period of 3 years rejected by the Committee in 2020, which is not relevant to the current application.
- 5.2 Details of the previous application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is no similar application for filling of land for agricultural use within the same “AGR” zone.

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

- 7.1 The Site is:
- (a) fenced off and occupied by some converted containers; and
 - (b) accessible from Ping Che Road via a local track.
- 7.2 The surrounding areas have the following characteristics:
- (a) predominantly rural landscape character surrounded by vacant land, fallow agricultural land, open storage yards and temporary structures;
 - (b) surrounded by open storage yards to the south and west;
 - (c) to the east are mostly vacant land intermixed with a hobby farm, some warehouses and temporary structures; further southeast are vacant/unused land; and
 - (d) to the west across Ping Che Road are some open storage yards.

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, planning permission from the Board is required for filling of land within the “AGR” zone, as the activity may cause adverse drainage and environmental impacts on the adjacent areas.

9. Comments from Relevant Government Departments

9.1 The following government departments have been consulted and their views on the application are summarized as follows:

Land Administration

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

- (a) the Site comprises Lot No. 1110 S.A (Part) in D.D. 82. The lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guarantee of right of access. The lot is surrounded by private lots, the applicant should make his own arrangement for acquiring access to the Site;
- (b) there are unauthorized structures erected on the lot without prior approval. Her office reserves the right to take necessary lease enforcement action against the unauthorized structures as appropriate;
- (c) it is noted that land filling works would be carried out on the Site. The applicant should make precautionary measures to restrict the scale of land filling activity so as to ensure no private lots adjacent to the Site would be disturbed. Besides, the applicant should also comply with all land filling requirements imposed by relevant government departments, if any; and
- (d) advisory comments are appended at **Appendix IV**.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

- having reviewed the FI submitted by the applicant, she has no further comment on the application from the traffic engineering point of view.

Agriculture

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

- (a) no strong view on the application from agricultural perspective;
- (b) the proposed sea grapes cultivation on the Site is consistent with what is permitted under 'agricultural use' as defined by the Board; and
- (c) no adverse comment on the justifications for filling of land provided by the applicant.

Landscape

9.1.4 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) no objection to the application from landscape planning perspective;
- (b) the Site is located in an area of rural landscape character comprising open storage yards, temporary structures, farmland and tree clusters. The proposed filling of land for agricultural use is considered not incompatible with the surrounding environment;
- (c) significant adverse impact on existing landscape resources arising from the proposed development is not anticipated; and
- (d) advisory comments are appended at **Appendix IV**.

Environment

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

- (a) no objection to the application; and
- (b) there is no environmental complaint against the Site in the past three years.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

- (a) no objection to the application from public drainage point of view;
- (b) should the application be approved, an approval condition to request the applicant to submit and implement a drainage proposal for the Site is required to ensure that the proposed development will not cause adverse drainage impact to the adjacent area; and
- (c) advisory comments are appended at **Appendix IV**.

Fire Safety

9.1.7 Comments of the Director of Fire Services (D of FS):

- (a) no objection in principle to the application subject to fire service installations being provided to his satisfaction; and
- (b) advisory comments are appended at **Appendix IV**.

District Officer's Comments

9.1.8 District Officer (North), Home Affairs Department (DO(N), HAD) has consulted the locals on the application with the following comments:

- the First Vice-Chairman of the Ta Kwu Ling District Rural Committee objects the application. The Chairman of Fung Shui Area Committee, the incumbent North District Councilor of the subject constituency and the

Indigenous Inhabitant Representatives (IIRs) and Resident Representatives (RRs) of Lei Uk, Tong Fong and Tai Po Tin have no comment.

9.2 The following government departments have no comment on/no objection to the application:

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (c) Chief Building Surveyor/New Territories West, Building Department (CBS/NTW, BD); and
- (d) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD).

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

The application was published for public inspection on 13.5.2022. During the statutory public inspection periods, two public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Kadoorie Farm & Botanic Garden Corporation concerns if there is any ongoing enforcement case covering the Site.

11. Planning Considerations and Assessments

11.1 The application is to regularize the filling of land by concrete of about 0.15m in depth for permitted agricultural use at the Site zoned “AGR” on the OZP (**Plan A-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. Whilst ‘Agricultural Use’ in “AGR” zone is always permitted, any filling of land (except for laying of soil not exceeding 1.2m in thickness for cultivation or construction of any agricultural structure with prior written approval issued by LandsD) requires planning permission from the Board, as it may cause adverse drainage and environmental impacts on the adjacent areas. According to the applicant’s written justification, concrete paving is required to provide a solid foundation for the erection of structures to facilitate the proposed sea grapes incubation and cultivation. In this regard, DAFC has no adverse comments on the applicant’s justifications, and has no strong view on the application. Meanwhile, CE/MN of DSD and DEP have no objection from drainage and environmental perspectives.

11.2 The Site is situated in an area of rural landscape character comprising open storage yards, temporary structures, farmland and tree clusters. The filling of land for permitted agricultural use is considered not incompatible with the surrounding environment. Given that significant adverse impact on existing landscape resources arising from the proposed development is not anticipated, CTP/UD&L of PlanD has no objection on the application from landscape planning perspective.

11.3 C for T, upon review of the FI submitted by the applicant, has no further comment on the application from the traffic engineering point of view. Other relevant government departments consulted, including CE/MN of DSD, D of FS, CE/E of WSD and DEP, have no objection to or no adverse comment on the application.

- 11.4 Regarding the local comments conveyed by DO(N), HAD and adverse public comments as detailed in paragraphs 9.1.8 and 10 above respectively, the government departments' comments and the 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 comments conveyed by DO(N), HAD and public comments mentioned in paragraphs 9.1.8 and 10 respectively, the Planning Department has no objection to the application.
- 12.2 Should the Committee decide to approve the application, no time clause on commencement is proposed as the 'filling of land' operation under the application has already been completed. The following condition of approval and advisory clauses are also suggested for Members' reference:

Approval Condition

- the submission and implementation of a drainage proposal to the satisfaction of the Director of Drainage Services 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 development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good 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 justifications for land filling of 0.15m in height for agricultural purpose.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant 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.
- 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 13.5.2022
Appendix Ib	FI received on 7.9.2022
Appendix Ic	FI received on 5.10.2022
Appendix II	Previous application
Appendix III	Public comments
Appendix IV	Recommended advisory clauses
Drawing A-1	Proposed land filling area plan
Drawing A-2	Proposed layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & A-4b	Site photos

**PLANNING DEPARTMENT
OCTOBER 2022**