

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/699

- Applicant** : The Hong Kong Construction Industry Professional Plant-Operators and Mechanics' Association (香港建造業機械操作及維修專業人員協會) represented by Ying Shing (Hopewell) Engineering Company Limited
- Site** : Lot 220 in D.D. 84, Ping Che, New Territories
- Site Area** : About 942 m²
- 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** : Temporary Training Centre for Construction Industry with Ancillary Office for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a temporary training centre for construction industry with ancillary office for a period of three years (**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 covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the zone requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without a valid planning permission.
- 1.2 The Site is accessible via a local road leading to Ping Che Road (**Plan A-1**). According to the applicant, the temporary development comprises one single-storey converted container (about 3.8m in height) with a total floor area of about 70 m² for office use (**Drawing A-1**). The remaining uncovered area of the Site is mainly used for construction machineries operator training (i.e. excavator, compactor, etc.). Two car parking spaces for visitors/staff will be provided within the Site. The applicant has proposed traffic mitigations measures including the placing of traffic signs at the entrance to ensure pedestrian safety. The operation hours of the Site are between 10:00 a.m. and 5:00 p.m. Mondays to Fridays and

no operation on Saturdays, Sundays and public holidays. The site layout 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:

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|-----|--|---------------|
| (a) | Application Form with attachments received on 6.6.2022 | (Appendix I) |
| (b) | Supplementary Information received on 8.6.2022 | (Appendix Ia) |
| (c) | Further Information (FI) received on 3.10.2022 | (Appendix Ib) |
| (d) | FI received on 9.11.2022 | (Appendix Ic) |

1.4 At the request of the applicant, the Rural and New Town Planning Committee (the Committee) agreed to the applicant's request to defer making a decision on the application for two months on 29.7.2022.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the attachments at **Appendices I to Ic** which can be summarized as follows:

- (a) the Site is a training venue approved by the Labour Department (LD) for organizing training courses/examination for construction workers by The Hong Kong Construction Industry Professional Plant-Operators and Mechanics' Association (the Association);
- (b) there would be 3 classes per week and the schedule of the classes is not fixed. The training course involves the use of six excavators and one compactor;
- (c) the applicant has submitted traffic information, which indicates that adverse traffic impact on the surroundings is not anticipated; and
- (d) there is no excavating of soil within the Site. The training venue would not cause environmental nuisance to the surrounding areas.

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 posting site notice and sending notice to the Sheung Shui District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

4. **Background**

The Site is subject to an active enforcement case No. E/NE-TKL/453 (**Plan A-2**) against storage use. Enforcement Notice was issued on 4.10.2021 requiring the notice recipient to discontinue the unauthorized development by 4.1.2022. According to recent site inspections, the unauthorized development has not been discontinued, further enforcement/ prosecution action would be taken.

5. **Previous Application**

- 5.1 The Site is the subject of a previous application (No. A/NE-TKL/97) for temporary open storage of construction materials and machineries for a period of twelve months submitted by a different applicant and rejected by the Committee in 1998. The application is for a different use and is not relevant to the current application.
- 5.2 Details of the previous application are summarized at **Appendix II** and its location is shown on **Plan A-1**.

6. **Similar Application**

There is no similar application within “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.

7. **The Site and Its Surrounding Areas** (Plans A-1 and A-2, aerial photo on **Plan A-3** and site photos on **Plans A-4a and A-4b**)

- 7.1 The Site is:
 - (a) partly fenced off, partly paved and currently used for the applied use; and
 - (b) accessible via a local road leading to Ping Che Road (**Plans A-1 and A-2**).
- 7.2 The surrounding areas have the following characteristics:
 - (a) the Site is situated in an area of rural landscape character predominantly surrounded by vacant land, warehouses, storage, car repairing workshop, temporary domestic structures and active/fallow agricultural land; and
 - (b) sandwiched by two knolls zoned “Green Belt” (“GB”).

8. **Planning Intention**

The planning intention of the “AGR” zone is intended 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 departments’ comments as set out in paragraphs 9.2 and 9.3 respectively 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 III and IV** respectively.

9.2 Comments of the Commissioner of Labour (CL):

- (a) no comment on the application from occupational safety and health training point of view;
- (b) pursuant to the Factories and Industrial Undertakings Ordinance, Cap. 59, and its subsidiary regulations, the CL is empowered to recognize six types of Mandatory Safety Training (MST) Courses run by approved training course providers (TCPs). The LD has developed a set of Approval Conditions for Operating MST Courses. A TCP, among others, should run its recognized MST courses in full compliance with the requirements stipulated in the respective guidelines;
- (c) the applicant is a TCP approved to run recognized MST courses. Up to the present moment, the subject site (i.e. Lot 220 in D.D. 84) is an approved training venue of the Association for running the 4 MST courses including Training Course for Experienced Operators of Excavator; Training Course for New Operators of Compactor; Training Course for Experienced Operators of Compactor; and Training Course for Experienced Operators of Mini/Skid Loader; and
- (d) the LD's approval of the subject site as a training venue is only in relation to the condition and adequacy of the training facilities and equipment required under the Approval Conditions. It is the onus of the Association to comply with all other relevant statutory requirements including land use, building, fire and safety regulations administrated by other government departments.

9.3 The following government departments have reservation or conveyed views on the application:

Agriculture

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

- there are active agricultural activities 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 and plant nurseries. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

District Officer's Comments

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

- the 1st Vice-chairman of the Ta Kwu Ling District Rural Committee, the Chairman of Fung Shui Area Committee, the Indigenous Inhabitant Representative (IIR) of Lei Uk, the IIR of Tai Po Tin and the Resident Representative (RR) of Tai Po Tin and Lei Uk have no comment.

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

On 14.6.2022, 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. The Kadoorie Farm and Botanic Garden Corporation and one individual object to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; the Site is located between two “GB” clusters; and there are potential cumulative impacts of approving the application in the “AGR” zone, which still contains many high quality arable lands.

11. Planning Considerations and Assessments

- 11.1 The application is for a temporary training centre for construction industry with ancillary office for a period of three years at the Site zoned “AGR” on the OZP. It is noted that the applicant is one of the approved training course providers running the MST Courses, and the Site is a training venue approved by the LD for organizing training courses/examination for construction workers by the applicant. The applied 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. 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 development point of view as there are active agricultural activities in the vicinity, agricultural infrastructure such as road access is available, and the Site possesses potential for agricultural rehabilitation. It is considered that approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The applied use is not entirely incompatible with the surrounding areas predominated by warehouses, storages, workshops and temporary structures. CTP/UD&L of PlanD has no objection to the application from landscape planning perspective as significant adverse impact on existing landscape resources within the Site arising from the proposed use is not anticipated.
- 11.3 C for T has no comments on the application from traffic point of view subject to the implementation of the traffic management measures, as proposed by the applicant. DEP has no objection on the application as the Site does not involve use of heavy goods vehicles/ dusty operation. Other relevant Government departments consulted, including CE/MN of DSD, CBS/NTW of BD, D of FS and CE/C of WSD, have no adverse comment on / no objection to the application.
- 11.4 Regarding the adverse public comments as detailed in paragraph 10, the government departments’ comments and the planning assessments above are relevant. Regarding the public comment concerning the location of the Site is between the two “GB” clusters, it is noted that the development would not affect the subject “GB” areas.

12. Planning Department’s Views

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the public comments in paragraph and 10 above, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 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 3 years up to **25.11.2025**. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation from 5:00 p.m. to 10:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, 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 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 **25.5.2023**;
- (d) in relation to (c) 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 **25.8.2023**;
- (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 fire-fighting 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 **25.5.2023**;
- (g) in relation to (f) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 **25.8.2023**;
- (h) 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 **25.8.2023**;
- (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;
- (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; and
- (k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Town Planning Board.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- the applied 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. There is no strong planning justifications in the submission for a departure from such planning intentions, even on a temporary basis.

Advisory Clauses

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

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, 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 6.6.2022
Appendix Ia	Supplementary Information received on 8.6.2022
Appendix Ib	FI received on 3.10.2022
Appendix Ic	FI received on 9.11.2022
Appendix II	Previous Application
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Proposed Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2022**