

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/733

- Applicant** : 英盛（合和）工程有限公司
- Site** : Lot 11 RP in D.D. 46, Sha Tau Kok Road - Ma Mei Ha, Ta Kwu Ling, New Territories
- Site Area** : About 3,500m²
- 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 Open Storage of Hospital Beds Materials and Water-filled Barriers with Ancillary Office for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary open storage of hospital beds materials and water-filled barriers with ancillary office for a period of three years at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The Site is hard-paved, fenced off and currently used for the applied use without any valid planning permission.
- 1.2 The proposal consists of two single-storey structures (2.5m each in height) with a total floor area of about 300m² for office use. The remaining uncovered area are mainly used for open storage of hospital beds materials and water-filled barriers. One loading/unloading (L/UL) space for medium goods vehicles will be provided within the Site. The operation hours of the development are from 9:00 a.m. to 5:00 p.m. from Mondays to Fridays, with no operation on Saturdays, Sundays and public holidays. The 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:
- (a) Application Form with attachments received on 2.6.2023 (**Appendix I**)
 - (b) Further Information (FI) received on 28.9.2023* (**Appendix Ia**)
- *accepted and exempted from the publication and recounting requirements*

- 1.4 On 28.7.2023, 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.

2. Justifications from the Applicant

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

- (a) as the land owner of the original storage site refused to renew the rental contract, a relocation site is therefore required;
- (b) no adverse environmental and landscape impacts are anticipated. The applicant undertakes to implement proper drainage facilities and provide fire service installations (FSIs) should the application be approved by the Board; and
- (c) the operation only involves minimal traffic (two trips per week), and hence no traffic impact is expected.

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 notice in a prominent position and sent notice to Fanling District Rural Committee. Detailed information would be deposited at the meeting for Members' inspection.

4. Background

The Site is subject to planning enforcement action against unauthorized developments (UDs) involving storage use (including deposit of containers) (No. E/NE-TKL/480). The Site is under close monitoring by the Planning Department.

5. Town Planning Board Guidelines

The Town Planning Board Guidelines for "Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance" (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 3 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

There is one similar application (No. A/NE-TKL/624) for temporary open storage of construction materials for a period of three years within the same "AGR" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area (**Plan A-1**), which was rejected by the

Committee on 20.9.2019 mainly for being not in line with the planning intention of the “AGR” zone and not complying with the then TPB PG-13F in that no previous approval was granted to the Site, there were adverse departmental comments and local objections; and failure to demonstrate that the development would not induce adverse traffic, environmental and drainage impacts on the surrounding areas. Details of the similar application are summarized at **Appendix III**.

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

8.1 The Site is:

- (a) hard-paved, fenced off and is currently used for the applied use without any valid planning permission; and
- (b) accessible via a load track leading to Sha Tau Kok Road – Ma Mei Ha to the southeast.

8.2 The surrounding areas are characterized by active/fallow agricultural land, a farm in Pak Tin New Village, a plant nursery, temporary domestic structures, tree clusters and vacant land. To the immediate south is a streamcourse. To the north is the village cluster of Tai Tong Wu.

9. Planning Intention

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.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided at **Appendices IV** and **V** respectively.

10.2 The following government departments have objection to/adverse comments on the application:

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) 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.; and

- (c) the Site is paved with a watercourse located to the south of the Site. While there is no comment on the application from nature conservation perspective, the applicant should avoid adverse impact to the nearby watercourse during operation.

Environment

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

- (a) does not support the application from environmental perspective;
- (b) there are sensitive receivers (i.e. residential dwellings) in the vicinity of the Site (the nearest one is about 14m away) and the applied use involves the use of heavy vehicles. As such, environmental nuisance is expected; and
- (c) no environmental complaint has been received for the Site over the past three years.

Drainage

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

- (a) there is an unauthorized filling of river channel to form a 10m wide vehicular access from the Site to Sha Tak Kok Road on Government Land (GL) crossing a tributary of Ng Tung River (**Plan A-2**); and
- (b) as the filling works have obstructed the river flow and caused flooding to the nearby public road and private lot, there is objection to the application from public drainage perspective unless and until the issues on unauthorized river filling activities are resolved and that the applicant can demonstrate that there is a proper alternative vehicular access for the Site.

Landscape

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

- (a) the Site is located in an area of rural inland plains landscape character comprising temporary structures, vegetated areas, farmlands and tree clusters. The Site is hard-paved and occupied by containers, construction materials and water-filled barriers. Significant impact on the existing landscape resources within the Site is not anticipated. According to our record, no similar application was approved by the Board in the vicinity of the Site within the same "AGR" zone. There is concern that approval of the application for the applied use may alter the landscape character of the "AGR" zone; and
- (b) according to **Drawing A-1**, 16 trees of *Ficus microcarpa* are proposed to be planted outside the northern site boundary which is not recommended and would be in conflict with the existing trees. New tree plantings should be carried out within the Site and alternative trees of small to medium size species are recommended as *Ficus microcarpa* will become a large tree in

mature size.

Traffic

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

- (a) the applicant should provide the following assessments/information for our consideration:
 - (i) to substantiate the traffic generation and attraction from and to the Site and the traffic impact to the nearby links and junctions;
 - (ii) to justify the adequacy of the parking spaces and L/UL spaces so provided by relating to the number of vehicles visiting the Site;
 - (iii) to demonstrate the satisfactory manoeuvring of the goods vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and L/UL spaces, preferably using the swept path analysis;
 - (iv) to advise the management /control measures to be implemented to ensure no queuing of vehicles outside the Site; and
 - (v) to advise the provision and management of pedestrian facilities to ensure pedestrian safety.

District Officer's Comments

10.2.6 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) the Chairman of the Sha Tau Kok District Rural Committee; the Chairman, the 1st Vice-Chairman and the Vice-Chairman of Fanling District Rural Committee; the Resident Representative (RR) of Tai Tong Wu; the Indigenous Inhabitant Representative (IIR) and the RR of Wang Shan Keuk; and the IIR of Ma Mei Ha object to the application mainly on the grounds that the proposed development is too close to the village of Tai Tong Wu; the Site is used for the applied use without valid planning permission; unauthorized river filling works were carried out; the Site should be used for agricultural use to respect the planning intention of the "AGR" zone; the development would induce adverse traffic impact on the surrounding areas and pose road safety threats to nearby villagers. The IIR of Tai Tong objects to the application without providing justification;
- (b) the incumbent North District Councilor of N16 Constituency and the Chairman of Lung Shan Area Committee have no comment on the application; and
- (c) the incumbent North District Councilor of N18 Constituency, the RR of Ma Mei Ha , the IIR and the RR of Leng Tsui do not reply.

11. Public Comments Received During Statutory Publication Period

On 13.6.2023, the application was published for public inspection. During the statutory public inspection period, eight public comments were received (**Appendix VI**), including one from the Chairman of Sheung Shui District Rural Committee who indicates no comment on the application and the remaining seven from the Fanling District Rural Committee (three identical copies), the Kadoorie Farm and Botanic Garden Corporation and individuals object to the application mainly on the grounds that the applied use is not in line with the planning intention of the “AGR” zone; the Site is used for open storage use without obtaining planning approval; approval of the application would encourage illegal occupation of GL; poses road safety threats to villagers; the applied use would contaminate the ground; and the development would induce adverse traffic and hygienic impacts on the surrounding areas.

12. Planning Considerations and Assessments

- 12.1 The application is for a temporary open storage of hospital beds materials and water-filled barriers with ancillary office for a period of three years at the Site zoned “AGR”. The applied use is not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard 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 point of view as the Site possesses potential for agricultural rehabilitation. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis.
- 12.2 The Site falls within Category 3 areas under the TPB PG-No. 13G promulgated by the Board on 14.4.2023. The following considerations in the Guidelines are relevant:
- Category 3 areas: application would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Sympathetic consideration may be given if genuine efforts have been demonstrated in compliance with approval conditions of the previous applications and/or relevant technical assessments/proposals have been included in the fresh applications, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted on a temporary basis up to a maximum period of three years.
- 12.3 The Site is hard-paved and currently used for the applied use without valid planning permission. The surrounding areas are characterized by active/fallow agricultural land, a farm in Pak Tin New Village, a plant nursery, temporary domestic structures, tree clusters and vacant land. To the south and north of the Site are a streamcourse and the village cluster of Tai Tong Wu respectively. The proposed development is considered not compatible with the surrounding areas. CTP/UD&L of PlanD considers that approval of the application may alter the landscape character of the “AGR” zone and the applicant’s planting proposal outside the Site is not recommended. The applicant has failed to demonstrate that the applied use would not cause adverse landscape impact to the surrounding areas.

- 12.4 C for T advises that information/assessment in relation to traffic generation/attraction, width of vehicular access, manoeuvring of vehicles, adequacy of parking and L/UL spaces and management of pedestrian facilities, etc. should be provided, without which potential traffic impact arising from the applied use could not be ascertained. DEP does not support the application as there are sensitive receivers, i.e. temporary domestic structures, in the vicinity of the Site and the applied use involves the use of heavy vehicles. CE/MN of DSD has objection to the application from public drainage perspective as unauthorized river filling works were conducted, which have obstructed the river flow and caused flooding to the surrounding public roads and area. Other concerned government departments consulted, including Chief Engineer/Construction of Water Supplies Department and Director of Fire Services have no objection to or no adverse comment on the application.
- 12.5 The application does not comply with TPB PG-No. 13G in that the Site is not the subject of any previous approval and there are adverse departmental comments and local objections against the application. The applicant fails to demonstrate that the development would not induce adverse traffic, drainage, landscape and environmental impacts on the surrounding areas.
- 12.6 There is one similar application for open storage use in the vicinity of the Site within the same "AGR" zone, which was rejected by the Committee in 2019 for being not in line with the planning intention of the "AGR" zone; not complying with the then TPB PG-No. 13F; and failure to demonstrate that the development would not induce adverse traffic, environmental and drainage impacts on the surrounding areas. The planning circumstances of the current application are similar to the rejected one.
- 12.7 Regarding the local comments conveyed by DO (N) of HAD and public comments on the application as detailed in paragraphs 10.2.6 and 11 respectively, 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 local comments conveyed by DO (N) of HAD and public comments as detailed in paragraphs 10.2.6 and 11 respectively, the Planning Department does not support the application for the following reasons:
- (a) the development 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 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 such planning intention, even on a temporary basis;
 - (b) the development does not comply with TPB PG-No. 13G for "Application for Open Storage and Port Back-up Uses" in that no previous approval has been granted to the Site and there are adverse departmental comments and local objections; and
 - (c) the applicant fails to demonstrate in the submission that the development would not generate adverse traffic, drainage, landscape and environmental impacts on the surrounding areas.

- 13.2 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 24.11.2026. 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 9:00 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 24.5.2024;
- (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 24.8.2024;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within 6 weeks from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 5.1.2024;
- (g) the submission of a fire service installations (FSIs) 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 24.5.2024;
- (h) in relation to (g) above, the implementation of the FSIs 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 24.8.2024;
- (i) submission of a traffic management proposal within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 24.5.2024;
- (j) in relation to (i) above, the implementation of the traffic management proposal within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 24.8.2024;
- (k) if any of the above planning condition (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;
- (l) if any of the above planning condition (c), (d), (f), (g), (h), (i) or (j) 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

- (m) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

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

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachments received on 2.6.2023
Appendix Ia	FI received on 28.9.2023
Appendix II	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 to A-4c	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2023**