

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/754

- Applicant** : Anson Technology Limited represented by LCH Planning & Development Consultants Limited
- Site** : Lots 77 S.A (Part), 78 S.B (Part), 82 S.A, 82 S.B, 82 RP and 83 (Part) in D.D. 83 and Adjoining Government Land (GL), Kwan Tei North, Fanling, New Territories
- Site Area** : About 2,730m² (including GL of about 607m² or 22% of the Site)
- Land Status** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zonings** : (i) “Agriculture” (“AGR”) (about 90% of the Site)
(ii) “Open Storage” (“OS”) (about 10% of the Site)
- Application** : Temporary Warehouse and Workshop and Ancillary Office for a Period of Three Years and Associated Filling of Land

1 The Proposal

- 1.1 The applicant seeks planning permission for temporary warehouse and workshop and ancillary office for a period of three years and associated filling of land at the application site (the Site), which falls largely within an area zoned “AGR” (about 90%) with a small portion zoned “OS” (about 10%) on the OZP (**Plan A-1**). According to the Notes of the OZP, while ‘Warehouse (excluding Dangerous Goods Godown)’ and ‘Rural Workshop’ are always permitted within the “OS” zone, filling of land within the “AGR” zone requires planning permission from the Town Planning Board (the Board). The covering Notes of the OZP also stipulate that temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Board. The Site is largely hard-paved and occupied by some temporary structures for the applied uses without valid planning permission.
- 1.2 The Site is accessible via a local track leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). According to the applicant, the applied uses involve one two-storey structure of 15m in height for warehouse (for storage of construction materials and equipment), workshop and ancillary office with a total floor area of about 3,300m². Solar panels will be installed on the rooftop of the structure. Two private car parking spaces and four loading and unloading (L/UL) spaces for medium goods vehicles (MGV) will be provided within the Site. The proposed operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Fridays and between 9:00 a.m. and 2:00 p.m. on

Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 The applicant also proposes filling of land in the eastern portion of the Site (about 333m²) with concrete of not more than 0.3m in depth to level with the existing hard-paved area (**Drawing A-2**).
- 1.4 The applicant proposes measures to ensure pedestrian safety, such as placing a sign at the entrance of the Site, and arranging staff to manage the traffic condition at the entrance of the Site. A 1.5m tall metal fencing will be erected along the site boundary. The applicant proposes to plant five new trees within the Site to compensate for the five trees, which are undesirable species, to be felled (**Drawing A-2**).
- 1.5 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 8.4.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 6.8.2024* (**Appendix Ia**)
 - (c) FI received on 21.11.2024* (**Appendix Ib**)
 - (d) FI received on 3.12.2024* (**Appendix Ic**)

**accepted and exempted from publication and recounting requirements*

- 1.6 On 7.6.2024 and 4.10.2024, the Rural and New Town Planning Committee (the Committee) of the Board agreed to the applicant's requests to defer making a decision on the application for two months each.

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 Ic**, as summarised below:

- (a) the applied uses only involve simple manufacturing process and storage purpose of non-polluting and non-dangerous goods. The applied uses can support the economic and industrial growth in the Northern Metropolis;
- (b) the applied uses are visually compatible with the surrounding environment which comprises mainly warehouses, factories and temporary structures. There were similar planning approvals for warehouse and/or open storage uses within the same "AGR" zone on the OZP. Approval of the application on a temporary basis for a period of three years will not jeopardise the long-term planning intentions of the "AGR" and "OS" zones; and
- (c) no adverse traffic, drainage, environmental, visual and landscape impacts on the surrounding areas are anticipated. The applicant will strictly follow the relevant requirements in respect of fire safety, hygiene, drainage and noise nuisance, and will follow the mitigation measures and requirements in the revised "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP). Upon approval of the planning application, the applicant will apply for Short Term Waiver (STW) for the concerned lots within the Site from the Lands Department (LandsD).

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

The applicant is one of the “current land owners” of the Site and 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 obtaining consents from other “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” requirements are not applicable.

4 Background

The Site is not subject to any active planning enforcement action.

5 Previous Application

The Site is not the subject of any previous application.

6 Similar Applications

6.1 There were five similar applications involving four sites (No. A/NE-TKL/597, 633, 655, 676, 715, 735 and 744) within the “AGR” zone in the vicinity of the Site in the past five years for temporary warehouse, workshop and/or open storage uses. All of them were approved with conditions by the Committee between 2019 and 2024 mainly on the considerations that they were not incompatible with the surrounding land uses; no major adverse departmental comments were received on the application or the concerns of the relevant government departments could be addressed through imposition of approval conditions; they generally complied with the relevant TPB Guidelines; and policy support was given to facilitate the relocation of the applicant’s business affected by government projects (for applications No. A/NE-TKL/633 and 715 only).

6.2 Details of the similar applications are summarised at **Appendix IV** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) largely hard-paved and occupied by some temporary structures for the applied uses without valid planning permission; and
- (b) accessible via a local track leading to Sha Tau Kok Road – Lung Yeuk Tau.

7.2 The surrounding areas are of rural character comprising mainly warehouses, open storage yard, domestic structures (the nearest one about 5m to the northwest), active agricultural land and an orchard. Ng Tung River runs along the eastern side of the Site.

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, 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 departments as set out in paragraphs 9.2 and 9.3 respectively 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 in the Recommended Advisory Clauses are provided at **Appendices III** and **IV** respectively.
- 9.2 The following government departments object to/do not support the application:

Land Administration

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

- (a) 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;
- (b) Lots 77 S.A, 82 S.A and 82 RP in D.D. 83 are covered by STW No. 772 for the purpose of a rolling mill. The applicant is not the STW holder;
- (c) the Site is already being used for the uses under the application. The structures erected do not tally with the STW No. 772 nor the layout plan of the application;
- (d) the following irregularities covered by the planning application have been detected by her office:

- (i) unauthorised structures within the said private lots covered by the planning application

there are unauthorised structures on the private lots. The lot owner should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (ii) unlawful occupation of GL adjoining the said private lots with unauthorised structures covered by the planning application

portion of the GL within the Site (about 607m² as mentioned in

Appendix Ib) has been illegally occupied with unauthorised structure without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. LandsD objects to the planning application since there is illegal occupation of GL which regularisation would not be considered according to the prevailing land policy. The lot owners should immediately cease the illegal occupation of GL. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

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

unauthorised structures within the said private lots not covered by the planning application

there are unauthorised structures within Lots 77 S.A and 78 S.B in D.D. 83 which are not covered by the planning application. The lot owners should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (f) the approach of first erection of unauthorised structures then regularisation should not be encouraged. The STW (if applied after obtaining the planning approval) will be considered for the lot (i.e. the whole lot basis), therefore all unauthorised structures within the said private lots not covered by the planning application have to be removed as well. Illegal occupation of GL is not restricted to execution of structures but include occupation;
- (g) the statement in **Appendix Ic**, "...occupier on the GL which is suspected to extend toward Lot 78 S.B. The major portion of the structure sits on the GL which a tiny portion suspected to be extended to the applicant's lot." is not correct. The Authorised Land Surveyor (ALS) report provided by the applicant is self-explanatory (**Appendix Ib**). The applicant's statement of "There is no structure on the southeast side towards the GL..." is not consistent with the ALS's letter/ report;
- (h) STW would be considered on whole lot basis. Application by such partitioning approach is not acceptable. The registered lot owners/ applicant shall cease the illegal occupation of the GL and either (i) remove the unauthorised structures not covered by the planning application immediately; or (ii) include the unauthorised structures in the 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 STW to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot

owners/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 applied uses are temporary in nature, only erection of temporary structures will be considered; and

- (i) unless and until the unauthorised structures and the unlawful occupation of GL are duly rectified by the lot owners/applicant or the unauthorised structures not covered by the planning application are entirely included in the planning application, her office objects to the application and it must be brought to the attention of the Board when they consider the planning application.

Agriculture and Nature Conservation

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

- (a) the application is not supported from agricultural perspective;
- (b) the Site falls within the “AGR” and “OS” zones and is generally occupied by some structures. 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. The Site possesses potential for agricultural rehabilitation; and
- (c) no comment on the application from nature conservation perspective. The applicant should avoid impact on Ng Tung River nearby during construction and operation of the applied uses should the application be approved.

Environment

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

- (a) according to the COP, the application should not be supported as there are residential structures in the vicinity of the Site (the nearest one about 5m to the northeast) (**Plan A-2**) and the use of heavy vehicles is involved;
- (b) no objection to the filling of land from environmental perspective. The applicant is reminded to observe the Water Pollution Control Ordinance and follow the mitigation measures as required under Environment, Transport and Works Bureau Technical Circular (Works)No. 5/2005 “Protection of natural streams/rivers from adverse impacts arising from construction works” for the land filling works during construction phase;
- (c) should the application be approved, the applicant is advised to follow the relevant mitigation measures and requirements in the latest COP to minimise any potential environmental nuisances; and
- (d) no environmental complaint was received in the past three years.

9.3 The following government department has relayed the local views on the application:

District Officer's Comments

9.3.1 Local views/comments conveyed by the District Officer (North), Home Affairs Department (DO(N), HAD):

- (a) a member of the North District Council (NDC) supports the application;
- (b) the Chairman, 1st Vice Chairman and Vice-Chairman of Fanling District Rural Committee express view that the applicant should provide details of the applied uses; and
- (c) seven members of the NDC have no comment.

10 Public Comments Received During Statutory Publication Period

On 16.4.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received (**Appendix V**). One comment from an individual objects to the application mainly on the grounds that the majority of the Site has been illegally filled; open storage use should not be extended; uncovered land is important to facilitate natural drainage between filled areas; and the need for the applied uses is not justified. Another comment from a member of the NDC indicates no comment on the application.

11 Planning Considerations and Assessments

- 11.1 The application is for temporary warehouse and workshop and ancillary office for a period of three years and associated filling of land at the Site zoned “AGR” (about 90%) and “OS” (about 10%) on the OZP. While ‘Warehouse (excluding Dangerous Goods Godown)’ and ‘Rural Workshop’ uses are always permitted within the “OS” zone, the applied uses are not in line with the planning intention of the “AGR” zone which is primarily to retain and safeguard good quality agricultural land/farm/fishponds 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 agriculture perspective as the Site possesses potential for agricultural rehabilitation. Nonetheless, taking into account the planning assessments below, the applied uses on a temporary basis of three years could be tolerated.
- 11.2 The applicant proposes filling of land in the eastern portion of the Site (about 333m²) with concrete of not more than 0.3m in depth to level with the existing hard-paved area. Filling of land within “AGR” zone requires planning permission 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 has no objection to the application from public drainage viewpoint, while DEP has no objection to the proposed filling of land from environmental perspective. An approval condition requiring the reinstatement of the Site to an amenity area is recommended in paragraph 12.2 below.
- 11.3 The Site is located in an area of rural character comprising mainly warehouses, open storage yard, domestic structures, active agricultural land and an orchard. The Chief Town Planner/Urban Design & Landscape of Planning Department has no objection to the application from landscape planning perspective and considers that the applied uses are not incompatible with the surrounding environment.

- 11.4 While DEP does not support the application as the applied uses involve the use of heavy vehicles and environmental nuisance on the sensitive receivers (i.e. residential structures) in the vicinity of the Site is expected, no environmental complaint at the Site was received in the past three years. The applicant will be advised to follow the environmental mitigation measures as set out in the COP. Other relevant departments consulted, including the 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. To address the technical requirements of the concerned departments, relevant approval conditions are recommended in paragraph 12.2. Regarding DLO/N, LandsD's concern on the unauthorised structures erected and occupation of GL within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 11.5 There were five similar applications within the "AGR" zone in the vicinity of the Site in the past five years, all of them were approved with conditions by the Committee as mentioned in paragraph 6.1 above. The planning circumstances of the current application are similar to the approved applications. As such, approval of the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the local comments conveyed by DO(N), HAD and public comments received on the application as detailed in paragraphs 9.3 and 10 respectively, comments from the government departments 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 local comments conveyed by DO(N), HAD and public comments as detailed in paragraphs 9.3 and 10 respectively, the Planning Department considers that the applied uses could be tolerated for a period of three 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 three years until 10.1.2028. 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 10.7.2025;
- (b) in relation to (b) 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 10.10.2025;
- (c) in relation to (b) above, the implemented drainage facilities 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 10.7.2025;

- (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 10.10.2025;
- (f) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) upon expiry of the planning permission, the reinstatement of the “AGR” portion of the Site to an amenity area to the satisfaction of the Director of Planning 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 applied uses with associated filling of land are 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 justification in the submission for a departure from the planning intention, even on a temporary basis.

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 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 8.4.2024
Appendix Ia	FI received on 6.8.2024
Appendix Ib	FI received on 21.11.2024
Appendix Ic	FI received on 3.12.2024
Appendix II	Similar Applications
Appendix III	Government Departments’ General Comments
Appendix IV	Recommended Advisory Clauses

Appendix V	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Land Filling Plan and Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A4a- to A-4b	Site Photos

**PLANNING DEPARTMENT
JANUARY 2025**