

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/774

<u>Applicant</u>	:	香港建造業機械操作及維修專業人員協會 represented by 英盛(合和)工程有限公司
<u>Site</u>	:	Lot 220 in D.D. 84, Ta Kwu Ling, New Territories
<u>Site Area</u>	:	About 940.5 m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan No. S/NE-TKL/14
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Temporary Training Centre for Construction Industry with Ancillary Office for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary training centre for construction industry 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 covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use without valid planning permission.
- 1.2 The Site is accessible via a local track leading to Ping Che Road (**Plan A-1**). According to the applicant, the applied use at the Site has been endorsed by the Labour Department (LD) as a training and examination venue for construction workers. It involves a single-storey structure for office use with a height of about 3 m and a floor area of about 70 m². The remaining uncovered area of the Site is mainly used as training area for construction machineries (excavator and compactor) and venue for relevant examinations. Two private car parking spaces for staff and visitors are provided within the Site. The operation hours are between 9:00 a.m. and 5:30 p.m. from Mondays to Fridays, with no operation on Saturdays, Sundays and public holidays. The proposed layout plan submitted by the applicant is shown in **Drawing A-1**.
- 1.3 According to the applicant, sufficient vehicle manoeuvring space will be provided at the ingress/egress such that no queuing of vehicle outside the Site is anticipated. To ensure pedestrian’s safety, warning signs and traffic cones will be provided at the ingress/egress and the speed of vehicles within the Site will be limited. The applicant also submitted a

drainage proposal and a fire service installations (FSIs) proposal in support of the application. The applicant undertakes to reinstate the Site upon expiry of the planning permission.

- 1.4 The Site is the subject of two previous applications (No. A/NE-TKL/97 and 699). The last application (No. A/NE-TKL/699) for the same use submitted by the same applicant of the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 25.11.2022. The planning permission was subsequently revoked on 25.11.2023 due to non-compliance with the approval conditions relating to the submission of drainage and FSIs proposals as detailed in paragraph 5.2 below. Compared with the last approved application, the current application is for the same applied use and the same site layout and floor area, with a slight reduction of height of the structure (from 3.8 m to 3 m).
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with attachments received on 29.8.2024 **(Appendix I)**
 - (b) Supplementary Information (SI) received on 4.9.2024 **(Appendix Ia)**
 - (c) Further Information (FI) received on 10.10.2024 * **(Appendix Ib)**
- *accepted and exempted from the publication and recounting requirements*

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 at **Appendices I to Ib** and summarised below:

- (a) the applicant is founded in 1994 and has been providing training courses endorsed by the LD to construction workers in Hong Kong. The Site is a training/ examination venue approved by the LD. Due to an increase of examinees in recent years, there is a strong demand for the applied use;
- (b) three classes will be scheduled at the Site weekly, each limited to a maximum of three students according to the LD's regulations. Students and examinees will be advised to use public transport to access the site, with the nearest minibus stop located 370m (or two-minute walk) away; and
- (c) the current application is the same as the previously approved application (No. A/NE-TKL/699). The applicant did not proceed with the approved scheme mainly due to a lack of knowledge on the fire safety and information on the drainage network in the surrounding areas. After gaining more knowledge on fire prevention measures and existing drainage facilities in the area, the applicant submitted the current application for the applied use at the Site.

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. 31B) by sending notice to Ta Kwu Ling District Rural Committee and posting notice in a prominent position on or near the Site. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site falls within an active planning enforcement case regarding unauthorised training centre and storage use and would be subject to planning enforcement action. The Site only covers the southern portion of the enforcement boundary.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications No. A/NE-TKL/97 and 699.
- 5.2 Application No. A/NE-TKL/699 for temporary training centre for construction industry with ancillary office for a period of three years was submitted by the same applicant of the current application, and was approved with conditions by the Committee on 25.11.2022 mainly on the considerations that the applied use was not entirely incompatible with the surrounding areas and no major adverse departmental comment was received. The planning permission was subsequently revoked on 25.11.2023 due to non-compliance with the approval conditions relating to the submission of a drainage proposal and the proposals for FSIs and water supplies for fire-fighting. Compared with the last approved application, the current application is for the same applied use with the same site layout and floor area, but a slight reduction of height of the structure (from 3.8 m to 3 m).
- 5.3 Application No. A/NE-TKL/97 for proposed temporary open storage of construction materials and machineries was rejected by the Committee in 1998. Since it was of a different use, its planning considerations are not relevant to the current application.
- 5.4 Details of the previous applications are summarised at **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Application

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

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

- 7.1 The Site is:
 - (a) partly fenced-off and currently used for the applied use without valid planning permission; and
 - (b) accessible via a local track leading to Ping Che Road.
- 7.2 The surrounding areas are of rural character comprising mainly warehouses, car repairing workshop, storage yards, domestic structures, active/fallow agricultural land and vacant land. Two knolls zoned “Green Belt” (“GB”) are located to the east and west of the Site.

8. 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.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraphs 9.2 and 9.3 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 The following government department provides views on the application:

Occupational Safety and Health Training

9.2.1 Comments of the Commissioner for Labour (C for L):

- (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, C for L is empowered to recognize six types of Mandatory Safety Training (MST) Courses run by approved training course providers. The LD has developed a set of Approval Conditions for Operating MST Courses. A training course provider, among others, should run its recognized MST courses in full compliance with the requirements stipulated in the respective guidelines;
- (c) the applicant is a training course provider approved to run recognised MST courses. Up to the present moment, the Site is an approved training venue of the applicant for running four 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 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 applicant 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 department does not support the application:

Agriculture

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

- (a) the application is not supported from the agricultural perspective; and

- (b) the Site falls within the “AGR” zone and is generally vacant. 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.

10. Public Comments Received During Statutory Publication Period

On 6.9.2024, the application was published for public inspection. During the statutory public inspection period, two comments were received (**Appendix V**). A member of the North District Council indicates no comment on the application. An individual expresses concerns that the Site is the subject of a previously approved application which was subsequently revoked due to non-compliance with approval conditions, and that the applied use may be related to an approved application adjoining the Site for open storage which was also revoked.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary training centre for construction industry with ancillary office for a period of three years at the Site zoned “AGR” on the OZP. 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. DAFC does not support the application from the agricultural perspective as the Site possess potential for agricultural rehabilitation. Nevertheless, C for L advises that the applicant is an approved training course provider running MST courses, and the Site is an approved training venue of the applicant to run the MST courses. Taking into account the planning assessments below, the applied use on a temporary basis of three years could be tolerated.
- 11.2 The Site is situated in an area of rural character mainly comprising warehouses, car repairing workshop, storage yards, domestic structures, active/fallow agricultural land and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from the landscape planning perspective. She considers that the applied use is not incompatible with the surrounding environment and significant adverse impact on existing landscape resources within the Site arising from the applied use is not anticipated.
- 11.3 The Site is accessible via a local track leading to Ping Che Road. The Commissioner for Transport has no comment on the application from the traffic engineering perspective. Other government departments consulted, including the Director of Environmental Protection and Chief Engineer/Mainland North of Drainage Services Department have no objection to or no adverse comment on the application on the environment and drainage aspects respectively.
- 11.4 The Site is the subject of a previously approved application (No. A/NE-TKL/699) submitted by the same applicant for the same use as the current application. The planning permission was revoked on 25.11.2023 due to non-compliance with the approval conditions relating to the submission of drainage and FSIs proposals. Compared with the previously approved application, all development parameters (except reduction in building height from 3.8 m to 3 m) and the site layout under the current application are

the same. In the current submission, the applicant has submitted a drainage proposal and a FSIs proposal in support of the application, and the Director of Fire Services considers the FSIs proposal acceptable. Should the Committee decide to approve the application, the applicant will be advised that should they fail to comply with any of the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration will not be given to any further application.

- 11.5 Regarding the public comments as detailed in paragraph 10, 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 considers that the applied use 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 25.10.2027. 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 25.4.2025;
- (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 25.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the implementation of the accepted 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 25.7.2025;
- (e) the implementation of the 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 25.7.2025;
- (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 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 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. 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 29.8.2024
Appendix Ia	SI received on 4.9.2024
Appendix Ib	FI received on 10.10.2024
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comments
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**