

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TK/745

<u>Applicant</u>	: Mr. CHIM Kwan Wo represented by PlanArch Consultants Ltd.
<u>Site</u>	: Lots 626 (Part), 627 (Part), 629 (Part), 630 (Part), 631 (Part), 632, 634 (Part) in D.D. 23 and Adjoining Government Land, Ting Kok, Tai Po, New Territories
<u>Site Area</u>	: About 1,695 m ² (including about 310 m ² of government land)
<u>Lease</u>	: Block Government Lease (demised for agricultural purpose)
<u>Plan</u>	: Approved Ting Kok Outline Zoning Plan (OZP) No. S/NE-TK/19
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Temporary Warehouse (Storage of Grain, Cooking Oil and Grocery) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for a temporary warehouse (storage of grain, cooking oil and grocery) use for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for in terms of the OZP. The Site is currently used for the applied use without valid planning permission.
- 1.2 According to the applicant’s submission, the applied use comprises seven single-storey structures with a total GFA of about 897 m² and heights of not more than 4.8 m for storage, ancillary office/store and rest area uses. A loading/unloading bay for light goods vehicle (7m x 3.5m) and a parking space for private car (5m x 2.5m) are provided within the Site to support the operation. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays, and there will be no operation on Sundays and public holidays. The Site is accessible via a local vehicular track leading to Ting Kok Road. A layout plan of the applied use is at **Drawing A-1**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) application form received on 24.1.2022 (Appendix I)
- (b) planning statement (Appendix Ia)

2. **Justifications from the Applicant**

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

- (a) a large part of the Site was formed and has been used for open storage and warehouse for grain, cooking oil and grocery by the applicant and his father since 1986, which was in existence before the gazettal of Ting Kok Interim Development Permission Area (IDPA) Plan on 7.9.1990. The use has been expanded since operation and the current application seeks to regularise such expansion;
- (b) the development is compatible with the adjoining land uses in terms of scale and nature. The operation is decent and tidy, and does not cause noise nuisance;
- (c) peripheral fencing and planting are provided to minimise visual impact to the surrounding areas and enhance visual quality. The applicant will carry out regular maintenance for the trees to ensure that they are in good condition;
- (d) the Site and its surrounding areas are not prone to flooding. Drainage facilities are found adjoining the Site. The applied use will not result in adverse drainage impact on the surrounding areas;
- (e) the applicant has undertaken environmental mitigation measures in accordance with the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to ensure that the applied use will not result in adverse environmental impact on the surrounding areas;
- (f) the applied use will not result in adverse traffic impact on the local road network. It is accessible via an existing vehicular track and has clearly defined ingress/egress. Adequate loading/unloading and parking spaces will be provided to meet operational needs. There will be a maximum of only two vehicular trips for delivery every day. No queuing nor waiting on public road is envisaged;
- (g) the applicant has made efforts to ensure clean and tidy operation of the applied use; and
- (h) the applied use is well-managed and has not caused any adverse traffic, drainage, environmental impacts or fire risks. It would not set an undesirable precedent for other similar applications.

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

The applicant is one of the “current land owners”. He 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 publishing newspaper notice and posting notice at the Site. Detailed information would be deposited at the meeting for Members’ inspection. As for the government land, the “owner’s consent/notification” requirements are not applicable.

4. Background

The Site had been cleared of vegetation with some structures for warehouse use erected along the northern boundary when the Ting Kok IDPA Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990 (**Plan A-3**). The remaining part of the Site was not covered by any structure. Over the years, the number and scale of temporary structures erected on the Site have been significantly increased. The Site is not subject to active enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “AGR” zone in the vicinity of the Site.

7. The Site and Its Surrounding Areas (Plans A-1, A-2 and photos on Plans A-3 and A-4)

7.1 The Site is :

- (a) currently used for the applied use without valid planning permission;
- (b) situated near the south-western fringe of Lai Pek Shan San Tsuen; and
- (c) accessible via a local vehicular track leading to Ting Kok Road.

7.2 The surrounding areas are predominantly rural in character with fallow agricultural land, village houses, tree groups and vacant land. To its immediate north and northeast are a densely vegetated woodland and the village proper of Lai Pek Shan San Tsuen respectively. Areas cleared of vegetation are found to its immediate south and further southeast within the same “AGR” zone, which are the subject of two previous planning enforcement actions (No. E/NE-TK/100 and E/NE-TK/160) against unauthorized development (UD) involving storage use and filling of land respectively (**Plan A-2**).

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

Land Administration

9.1.1 Comments of District Lands Officer/Tai Po, Lands Department (DLO/TP, LandsD):

- (a) no objection to the application;
- (b) the Site consists of seven private lots in D.D. 23 and 2 pieces of adjoining unallocated government land in Ting Kok. The private lots are held under the Block Government Lease demised for agricultural purpose. No structure shall be erected on the lot without prior approval from LandsD;
- (c) a recent inspection revealed that three unauthorised structures with a total GFA of about 1,218.95 m² were erected on the Site without prior approval from LandsD. The existing GFA is different from that under the current planning application. One of the unauthorised structures is also found straddled onto Lot 628 outside the Site. Warning letters were issued against these temporary structures. The lot owner is required to clear any unauthorised structures on the Site immediately. Otherwise, appropriate enforcement action would be taken in due course;
- (d) Short Term Waiver (STW) applications for temporary warehouse purpose with a total GFA of 819.68 m² on Lots 626, 627, 629, 630, 631 and 634 in D.D. 23 were received by his office on 25.10.2018. The GFA under the said STW applications was different from that under the current planning application. For the government land within the Site, no Short Term Tenancy (STT) application is received, and neither occupation nor works of any kind thereon is allowed. Should the Board approve the application, the lot owners are required to submit new applications for STW and STT to LandsD if they wish to erect the structures on the lots or occupy the government land for the applied use. However, there is no guarantee at this stage that the STW and STT applications would be approved. If the STW and STT applications are approved by LandsD acting in the capacity

as landlord at its sole discretion, such approval will be subject to such terms and conditions as may be imposed by LandsD where appropriate, including payment of waiver fee/rental and administrative fee;

- (e) the applicant will likely make use of the unallocated government land adjoining Lots 629 and 630 for access to the Site. As such, no trees thereon shall be interfered with unless prior approval is obtained from LandsD. The maintenance and management responsibility of the said government land and any other government land leading to the Site should be sorted out with the relevant government departments, prior to making use of them for ingress/egress purpose. Neither occupation nor works of any kind thereon is allowed without the prior approval from LandsD; and
- (f) there is no guarantee to the grant of right of way to the Site or approval of the emergency vehicular access (EVA) thereto.

Agriculture

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

- the Site is zoned “AGR” and is currently occupied by some structures. Agricultural infrastructure such as road access and water source is available in the vicinity. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

Landscape

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

- (a) some reservations on the application from the landscape planning perspective;
- (b) according to the applicant’s submission, the Site is fenced off, hard-paved with warehouse in operation. No significant landscape resource is observed within the Site;
- (c) the Site is situated in an area of rural landscape character comprising vacant land, vegetated areas, village houses, woodland and tree groups (**Plan A-3**). The applied use is incompatible with the surrounding landscape character. There are no similar applications for temporary warehouse which falls within the same “AGR” zone in the vicinity of the Site. There is concern that approval of the application may encourage similar developments

which would alter the landscape character and degrade the landscape quality of the “AGR” zone; and

- (d) should the Rural and New Town Planning Committee (the Committee) approve the application, it is considered not necessary to impose a landscape condition as the effect on enhancing the quality of public realm is not apparent.

Environment

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

- (a) no objection to the application;
- (b) no environmental complaint has been received in relation to the Site in the past 3 years; and
- (c) the applicant is advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimize any potential environmental nuisance.

Traffic

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

- (a) no in-principle objection to the application from traffic engineering viewpoint; and
- (b) the village access connecting Ting Kok Road it is not under Transport Department (TD)’s management. The land status, management and maintenance responsibilities of the village access should be clarified with the relevant lands and maintenance authorities accordingly in order to avoid potential land disputes.

9.1.6 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) no comments on the application; and
- (b) the local vehicular track is not maintained by HyD.

Drainage

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

- (a) no in-principle objection to the application from public drainage viewpoint;

- (b) if the application is approved, an approval condition on submission and implementation of drainage proposal for the Site is recommended to ensure that it will not cause adverse drainage impact to the adjacent areas; and
- (c) advisory comments in paragraph (e) of **Appendix III** should be observed.

Building Matter

9.1.8 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- advisory comments in paragraph (f) of **Appendix III** should be observed.

Fire Safety

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

- (a) no in-principle objection to the application;
- (b) the applicant is advised to submit relevant layout plans incorporated with the proposed fire service installations (FSIs) for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy and the location of the proposed FSIs to be installed should be clearly marked; and
- (c) the applicant is reminded that if the proposed structure(s) are required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Head (Geotechnical Engineering Office), Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Project Manager/North, Civil Engineering and Development Department (PM/N, CEDD); and
- (d) District Officer(Tai Po), Home Affairs Department (DO(TP), HAD).

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

On 8.2.2022, the application was published for public inspection. During the statutory public inspection period, two public comments were received from individuals objecting to the application mainly for concerns on fire risks, adverse traffic and

environmental impacts, and on the ground that approving the use will encourage further brownfield operations and affect surrounding environment.

11. Planning Considerations and Assessments

- 11.1 This application is for a temporary warehouse (storage of grain, cooking oil and grocery) use for a period of 3 years in an area zoned “AGR” on the OZP. The applied use is not in line with the planning intention of “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 agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the current submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is located in an area predominantly rural in character comprising mainly fallow agricultural land, village houses, tree groups and vacant land (**Plan A-2**). A densely vegetated woodland is found to its immediate north and the village proper of Lai Pek Shan San Tsuen is located to its immediate northeast. The Site had been cleared of vegetation with some structures for warehouse use erected along the northern boundary when the Ting Kok IDPA Plan No. IDPA/NE-TK/1 was gazetted on 7.9.1990 (**Plan A-3**). However, the number and scale of temporary structures erected on the Site have been significantly increased over the years. CTP/UD&L, PlanD has some reservations on the application as the applied use is incompatible with the surrounding landscape character. There are no similar applications for temporary warehouse within the same “AGR” zone in the vicinity of the Site. Approval of the application may encourage other similar developments which would alter the landscape character and degrade the landscape quality of the “AGR” zone. It is noted that there are areas cleared of vegetation and formed to the immediate south and further southeast of the Site, which were subjects of previous planning enforcement actions (No. E/NE-TK/100 and E/NE-TK/160) against UD involving storage use and filling of land (**Plans A-2 and A-3**). Other relevant government departments consulted have no objection to/adverse comment on the application from technical aspects.
- 11.3 Regarding the public comments as mentioned in paragraph 10 above, 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 public comments mentioned in paragraph 10, 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 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 current submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the development would not result in adverse landscape impact on the area.

12.2 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 3 years until 18.3.2025. The following approval conditions and advisory clauses are also 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 18.9.2022;
- (b) in relation to (b) above, the implementation of drainage proposal 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 18.12.2022;
- (c) the submission of a proposal for fire service installations (FSIs) 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 18.9.2022;
- (d) in relation to (c) above, the implementation of FSIs 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 18.12.2022; and
- (e) if any of the above planning conditions (a), (b), (c) or (d) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s) to be attached to the permission, and the period of which the permission should be valid on a temporary basis.

14. Attachments

Appendix I	Application form received on 24.1.2022
Appendix Ia	Planning Statement
Appendix II	Public comments
Appendix III	Recommended advisory clauses
Drawing A-1	Layout plan submitted by applicant
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photos
Plan A-4	Site photos

**PLANNING DEPARTMENT
MARCH 2022**