

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-WKS/17

- Applicant** : Shui Wing Properties Limited represented by Vision Planning Consultants Limited
- Site** : Lots 1265 RP and 1267 in D.D. 79 and Adjoining Government Land, Ng Chow Road, Ping Che, New Territories
- Site Area** : About 2,968 m² (including about 67 m² of Government Land)
- Land Status** : (i) Block Government Lease (demised for agricultural use)
(about 97.7% of the Site)
(ii) Government Land (about 2.3% of the Site)
- Plan** : Approved Wo Keng Shan Outline Zoning Plan (OZP) No. S/NE-WKS/10
- Zoning** : “Green Belt” (“GB”)
- Application** : Proposed Temporary Warehouse for Storage of Construction Machinery and Construction Materials for a Period of 3 Years and Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for a proposed temporary warehouse for storage of construction machinery and construction materials for a period of three years and filling of land at the application site (the Site). The Site falls within an area zoned “GB” on the approved Wo Keng Shan OZP No. S/NE-WKS/10. According to the Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “GB” zone requires planning permission from the Board notwithstanding that the use is not provided for under the Notes of the OZP. Filling of land in the “GB” zone also requires planning permission from the Board. The Site is currently vacant and covered with vegetation.
- 1.2 The Site is accessible from Ng Chow Road via the ingress / egress point in the south (**Plan A-2**). According to the applicant, the proposed development involves eight single-storey temporary structures (about 2.6-5 m in height) for storage use, toilet and guardhouse respectively with a total floor area of about 940 m². Two parking spaces for private cars and two loading/unloading spaces (for light goods vehicles (LGVs) and heavy goods vehicles (HGVs)) are provided at the Site (**Drawing A-1**). About 73% of the Site (about 2,181 m²) is proposed to be filled with reinforced concrete with a depth of about 0.2 m. The remaining area along the boundary of the Site (about 787 m²) will be used as planting area (**Drawing A-2**). The operation hours of the Site are between 8:00 a.m. and 6:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The proposed layout plan with traffic management measures and paved area submitted by the applicant are at **Drawings A-1** and **A-2** respectively.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 23.2.2022 **(Appendix I)**
 - (b) Planning Statement **(Appendix Ia)**
 - (c) Further Information (FI) received on 6.4.2022 **(Appendix Ib)**
 - (d) FI received on 25.4.2022 **(Appendix Ic)**
- 1.4 On 22.4.2022, the Committee agreed to the applicant's request to defer making a decision on the application for one month to allow more time for the applicant to address departmental comments. The FI submission was received on 25.4.2022 and the application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the application form, planning statement and FI submissions at **Appendices I to Ic** as summarised below:

- (a) the proposed development is temporary in nature and would not result in any irreversible impact on the long-term planning intention of the "GB" zone;
- (b) the proposed development is not incompatible with the adjacent land uses which comprises mainly open storages, warehouses and workshops in the "Open Storage" ("OS") zone (**Plan A-2**);
- (c) the proposed development is a tidy, clean and quiet operation which will be surrounded by a planting strip. All loading and unloading operations will be carried out within enclosed warehouses;
- (d) there is an urgent need to provide a piece of transitional land to store the applicant's additional construction machinery and construction materials to avoid off-site storage problems in the area. The huge increase in the volume of construction activities has triggered a very high demand pressure for additional storage sites to resolve the consequential operational needs;
- (e) no adverse traffic impact arising from the proposed development is anticipated, with a maximum of five vehicular trips generated during peak hours. Sufficient space will be provided for HGVs to manoeuvre within the Site to ensure no queuing of vehicles outside the Site. A 1.5 m wide footpath within the Site and a pair of revolving warning light at the entrance will be provided to ensure pedestrian safety (**Drawing A-1** and **Appendix Ib**); and
- (f) the Traffic Impact Assessment and Drainage Impact Assessment have demonstrated that the proposed development will not cause any significant adverse impact on the road network or drainage system in surrounding areas.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is the sole "current land owner". Detailed information would be deposited at the meeting for Members' inspection. For the government land portion within the Site, TPB PG-No. 31A is not applicable.

4. **Town Planning Board Guidelines**

The Town Planning Board Guidelines for ‘Application for Development within Green Belt Zone under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 10) is relevant to the application. Relevant extracts of the Guidelines are at **Appendix II**.

5. **Background**

The Site was the subject of a previous planning enforcement case against unauthorised filling of land with the Enforcement Notice (EN) and Reinstatement Notice (RN) issued on 21.12.2015 and 14.11.2016 respectively. Subsequent site inspections revealed that the unauthorised development had been discontinued and the Site has been reinstated. Compliance Notices for the EN and RN were issued in 2019.

6. **Previous Application**

There is no previous application at the Site.

7. **Similar Application**

There is no similar application for temporary warehouse uses within the same “GB” zone.

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

8.1 The Site is:

- (a) vacant, covered with vegetation and fenced off; and
- (b) abutting Ng Chow Road.

8.2 The surrounding areas have the following characteristics:

- (a) to the northwest are some temporary domestic structures, a vegetated hillslope within the “GB” zone and a streamcourse (**Plan A-2**);
- (b) to the east are two enforcement cases (No. E/NE-WKS/31 & 41) for filling of land and storage use respectively (**Plan A-2**)
- (c) to the further east is Heung Yuen Wai Highway (**Plans A-2 and A-3**); and
- (d) to the immediate south is a streamcourse and Ng Chow Road, across which are clusters of warehouses and open storage yards within the “OS” zone on the Ping Che and Ta Kwu Ling OZP.

9. **Planning Intention**

- 9.1 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.
- 9.2 According to the Explanatory Statement of the OZP, permission from the Board is required for filling of land within the “GB” zone, as the activity may cause adverse drainage impacts on the adjacent areas and adverse impacts on the natural environment.

10. **Comments from Relevant Government Departments**

- 10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III** and **IV** respectively.
- 10.2 The following government departments have objection to / reservation on the application.

Environment

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

- (a) the application is not supported since there are sensitive receivers (i.e. domestic structures) in the vicinity of the Site and the closest one is located at a distance of about 20 m (**Plan A-2**);
- (b) there was no environmental complaints against the Site during the past three years; and
- (c) DEP’s other advisory comments are provided in the Recommended Advisory Clauses in **Appendix IV**.

Landscape

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

- (a) there are some reservations on the application from landscape planning perspective;
- (b) the Site is located in an area of rural character comprising woodland within the “GB” zone in the north;
- (c) vegetation clearance with hard paved area within the Site is observed with reference to aerial photos, adverse landscape impact on existing landscape resources has taken place since 2016; and

- (d) no similar application has been approved within the “GB” zone in close proximity. Approval of the application may further alter the landscape character and degrade the landscape quality of the “GB” zone.

District Officer’s Comments

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

- he has consulted the locals regarding the application. The First Vice-Chairman of Ta Kwu Ling District Rural Committee, three Indigenous Inhabitant Representatives (IIRs) of Ping Yeung, one Resident Representative (RR) of Ping Yeung and one IIR of Wo Keng Shan object the application on the grounds that the proposed development would lead to traffic congestion and cause potential threats to the safety of villagers. The incumbent North District Council member of subject constituency considers that road networks in the area are not suitable for HGVs and it would further deteriorate the poor quality of road surface, which leads to flooding during the rainy season. The Chairman of Fung Shui Area Committee, IIR of Ping Che, RR of Ping Che and RR of Wo Keng Shan have no comment on the application.

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

On 4.3.2022, the application was published for public inspection. During the statutory public inspection period, seventeen public comments were received. The Chairman of Sheung Shui District Rural Committee indicates no comment on the application. Thirteen individuals support the application on grounds that the proposed development could meet the growing needs for construction storage sites under the Northern Metropolis Development Strategy; bring social and economic benefits to the neighbouring areas; compatible with the surrounding environment; help utilise land resources; and adverse impacts can be addressed by proposed mitigation measures. Kadoorie Farm and Botanic Garden Corporation raises objection to the application on considerations that it is unlikely to be in line with the planning intention of “GB” zone; and approval of the application would set a precedent for other similar application. Two individuals raise objection to the application as the warehouse would cause adverse traffic and environmental impacts on the surrounding areas; increase fire risk; and pose threats to the villagers.

12. Planning Consideration and Assessments

- 12.1 The application is for a proposed temporary warehouse for storage of construction machinery and construction materials for a period of three years and filling of land at the Site zoned “GB” on the OZP. The proposed development is considered not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There are no strong justifications in the submission for a departure from the planning intention of the “GB” zone, even on a temporary basis.

- 12.2 The temporary development is considered not compatible with the surrounding rural landscape character in the “GB” zone. CTP/UD&L, PlanD has reservations on the application as the approval of the application may further alter the landscape character and degrade the landscape quality of the “GB” zone, and no similar application has been approved within the “GB” zone in close proximity. In this regard, the application does not comply with TPB PG-No. 10 in that the proposed development would affect the existing natural landscape of the area.
- 12.3 DEP does not support the application as there are sensitive receivers in the vicinity of the Site (**Plan A-2**). DAFC has no adverse comment on the application. Having reviewed the FI submitted by the applicant, C for T considers that the traffic impact induced by the proposed development is tolerable from traffic engineering point of view. Other relevant government departments, including CE/MN, DSD and D of FS, have no adverse comment on or no objection to the application.
- 12.4 Regarding the local objection as conveyed by DO(N), HAD and the public comments as detailed in paragraphs 10.2.3 and 11 above 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 the local objection and public comments in paragraphs 10.2.3 and 11 above respectively, the Planning Department does not support the application for the following reasons:
- (a) the proposed development is not in line with the planning intention of the “GB” zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis;
 - (b) the proposed development does not comply with TPB PG-No. 10 for ‘Application for Development within “GB” Zone under Section 16 of the Town Planning Ordinance’ in that the applicant fails to demonstrate in the submission that the proposed development would not affect the existing natural landscape; and
 - (c) the applicant fails to demonstrate in the submission that the proposed development would not cause adverse environmental impacts to 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 24.6.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 8:00 a.m. from Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no operation on 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 24.12.2022;
- (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 24.3.2023;
- (e) the submission of proposals for fire service installations and water supplies for firefighting 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 24.12.2022;
- (f) in relation to (e) above, the implementation of proposals for fire service installations and water supplies for firefighting 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 24.3.2023;
- (g) 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 24.3.2023;
- (h) if any of the above planning conditions (a) or (b) 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;
- (i) if any of the above planning conditions (c), (d), (e), (f) or (g) 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
- (j) 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**.

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 received on 23.2.2022
Appendix Ia	Planning statement
Appendix Ib	FI received on 6.4.2022
Appendix Ic	FI received on 25.4.2022
Appendix II	Relevant extracts of TPB PG-No. 10
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Proposed layout plan with traffic management measures
Drawing A-2	Proposed paved area
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
JUNE 2022**