

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1141

- Applicant** : Mr. LAI Kin Tui represented by Ever United Planning and Development Limited
- Site** : Lots 257 RP (Part), 258 (Part) and 259 (Part) in D.D.128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 2,826m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ha Tsuen Fringe Outline Zoning Plan (OZP) No. S/YL-HTF/12
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Warehouse for Storage of Construction Materials and Miscellaneous Goods for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of construction materials and miscellaneous goods for a period of 3 years at the application site (the Site) (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or buildings 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 under the Notes of the OZP. The Site is currently used for open storage of construction materials and machineries, and occupied by some temporary structures (**Plans A-4a and A-4b**).
- 1.2 The Site is accessible from Deep Bay Road (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-2**, 5 structures with a total gross floor area of not more than 1,641m² and building height of 3.5-11m (1-2 storeys) for warehouse, toilet, site office, F.S. pump room and water tank uses are proposed. The proposed warehouse will be fully enclosed and used for storage of construction materials and miscellaneous goods (which are mainly household electronic products). No dangerous goods will be stored and no workshop activities will be carried out at the Site. There will be 1 private car parking

space and 3 light goods vehicle loading/unloading bays. The operation hours will be from 9:00 a.m. to 7:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and Public Holidays. Location and vehicular access plan, proposed layout plan and proposed landscape and tree preservation plan are at **Drawings A-1 to A-3** respectively.

- 1.3 Part of the Site is involved in a previous application (No. A/YL-HT/64) (details at paragraph 5 below).
- 1.4 In support of the application, the applicant submitted the following documents:
 - (a) Application Form received on 26.8.2022 (Appendix I)
 - (b) Supplementary Planning Statement (Appendix Ia)
 - (c) Further Information (FI) received on 27.9.2022 (Appendix Ib)
[exempted from 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 Supplementary Planning Statement at **Appendix Ia**. They can be summarised as follows:

- (a) The proposed use is in line with 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.13F).
- (b) The proposed use is compatible with the surrounding environment, which is characterised by temporary warehouses, open storage yards and recyclable collection centres.
- (c) The proposed use is temporary in nature and would not jeopardise the long-term planning intention of the “AGR” zone.
- (d) Planning permissions for temporary open storage and recyclable collection centre were granted in the vicinity of the Site. In comparison, the proposed use is more static and environmentally friendly, hence favourable consideration should be given.
- (e) No adverse drainage, traffic and environmental impacts are anticipated.

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

The applicant is not the “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 site notice and publishing newspaper notices. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

Part of the Site is involved in a previous application (No. A/YL-HT/64) for temporary open storage of construction materials and construction machinery for a period of 12 months rejected by the Committee on 8.1.1999. The considerations for the application are not relevant to the current application, which involves a different use. Details of the application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Application

There is one similar application (No. A/YL-HTF/1092) for proposed temporary warehouse of electric spare parts for a period of 2 years within the same “AGR” zone on the OZP in the past 5 years. The application was rejected by the Board on review on 8.11.2019 mainly on the grounds that the proposed development is not in line with the planning intention of the AGR zone; the applicant fails to demonstrate that the proposed development would not generate adverse landscape impact on the surrounding areas; and approval of the application would set an undesirable precedent for other similar applications. Details of the application are summarized at **Appendix II** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) hard-paved, currently used for open storage of construction materials and machineries, and occupied by some temporary structures; and
- (b) accessible from Deep Bay Road.

7.2 The surrounding areas have the following characteristics. Some of the uses are suspected unauthorized developments (UDs) subject to enforcement by the Planning Authority:

- (a) to the north, east and northeast are open storage yards;
- (b) to the south, southeast and southwest are a recyclable collection centre covered by valid planning permission, some vacant land and a warehouse; and
- (c) to the west and northwest across Deep Bay Road are gardening areas and residential dwellings at Sha Kong Tsuen, as well as a car park.

8. Planning Intention

The planning intention of the “AGR” zone is 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 department as set out in paragraph 9.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments are provided in **Appendices III** and **IV** respectively.

9.2 The following government department does not support the application:

Agriculture

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

The Site falls within the “AGR” zone and is occupied by some structures. 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. As the Site possesses potential for agricultural rehabilitation, the proposed development is not supported from agricultural perspective.

10. Public Comments Received During the Statutory Publication Period

On 2.9.2022, the application was published for public inspection. During the statutory public inspection period, 3 public comments from two individuals and Kadoorie Farm and Botanic Garden Corporation were received (**Appendices V-1 to V-3**) objecting to the application on the grounds of adverse impacts to surrounding villagers; adverse environmental, traffic and fire safety impacts arising from using the Site for warehouse and workshop uses; and suspected UD at the Site.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary warehouse for storage of construction materials and miscellaneous goods for a period of 3 years at the Site zoned “AGR” on the OZP, which is intended 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. Although DAFC does not support the application from the agricultural perspective mainly on consideration that the Site possesses potential for agricultural rehabilitation and agricultural infrastructures such as road access and water source are available in the area, approval of the

application on a temporary basis for 3 years would not frustrate the long-term planning intention of the “AGR” zone.

- 11.2 The Site is situated in an area of miscellaneous rural fringe predominated by open storage yards¹, warehouse, vacant land and a recyclable collection centre with valid planning permission. The proposed use is not entirely incompatible with the surrounding areas.
- 11.3 Relevant government departments, including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Environmental Protection and Director of Fire Services have no objection to or no adverse comment on the application. The proposed use will unlikely create significant adverse traffic, drainage, environmental and fire safety impacts to the surrounding areas. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below.
- 11.4 Within the same “AGR” zone, there is one similar application (No. A/YL-HTF/1092) which was rejected by the Board. The planning considerations of the rejected application is different from the current application in that it failed to demonstrate the proposed use would not generate adverse landscape impact on the surrounding areas, while for the current application, Chief Town Planner/Urban Design & Landscape, Planning Department considers that significant landscape impact arising from the proposed use is not anticipated and has no adverse comment on the current application. Approval of this application is not in conflict with the previous decision of the Committee.
- 11.5 There were 3 public comments received during the statutory publication period objecting to the application mainly on grounds stated in paragraph 10. The Site is not the subject of any planning enforcement action and the planning considerations and assessments in paragraphs 11.1 to 11.4 are also 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 above, the Planning Department considers that the proposed temporary warehouse for storage of construction materials and miscellaneous goods for a period of 3 years could be tolerated for a period of 3 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 3 years until 14.10.2025. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

¹ Part of the subject “AGR” zone where the Site is located, as well as the adjacent “R(D)” zone falls within the Category 2 Area under the TPB PG-No. 13F promulgated on 27.3.2020, which was upgraded from the Category 3 Area under the previous TPB PG-No. 13E. Since then, some planning applications for open storage uses have been approved in this locality.

Approval conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, as defined under the Road Traffic Ordinance, are allowed to enter/be parked on the Site, as proposed by the applicant, at all times during the planning approval period;
- (b) the submission of a revised drainage proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.4.2023**;
- (c) in relation to (b) above, the implementation of the drainage proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **14.7.2023**;
- (d) in relation to (c) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (e) the submission of a fire service installations proposal within **6 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.4.2023**;
- (f) in relation to (e) above, the implementation of the fire service installations proposal within **9 months** from the date of the planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **14.7.2023**;
- (g) if any of the above planning condition (a) or (d) 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; and
- (h) if any of the above planning condition (b), (c), (e) or (f) 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 IV**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the proposed 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. No strong planning justification has been given 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 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 received on 26.8.2022
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI dated 27.9.2022
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-3	Public Comments
Drawing A-1	Location and Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	Proposed Landscape and Tree Preservation Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2022**