

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1150

- Applicant** : 栢匯顧問及發展有限公司 represented by Ms. HUI Hang Yu (許幸如)
- Site** : Lots 130 (Part), 131, 132 (Part), 260 (Part), 261 (Part) and 268 (Part) in D.D.128 and Adjoining Government Land (GL), Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 8,410m² (including GL of about 590m² or 7%)
- 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”)¹
- Application** : Proposed Temporary Warehouse (Storage of Construction Materials, Metal and Electronic Parts) and Open Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (storage of construction materials, metal and electronic parts) and open storage of construction materials for a period of three years at the application site (the Site) (**Plan A-1**). The Site 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 buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently partly used for warehouse and parking of container vehicles/trailers without valid planning permission, and partly vacant (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible via a local track leading from Kai Pak Ling Road (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, 14 structures with a total gross floor area about 2,638m² and building height of 3-8m (1-2 storeys) for warehouse, office, guard room, toilet, fire services water

¹ Including a small portion of the Site (about 0.6%) zoned “Residential (Group D)” (“R(D)”), which can be regarded as minor boundary adjustment according to the covering Notes of the OZP.

tank and pump room uses are proposed. According to the applicant, the proposed warehouses will be fully enclosed. No inflammable goods will be stored and no workshop activities will be carried out at the Site. The uncovered area of the Site will be used for open storage and circulation space. There will be two private car parking spaces and four light goods vehicle loading/unloading bays. The operation hours will be from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and Public Holidays. The proposed layout plan and vehicular access plan are at **Drawings A-1 and A-2** respectively.

- 1.3 The Site is involved in ten previous applications, including six applications for various open storage uses rejected by the Rural and New Town Planning Committee (the Committee) or the Board on review between 1999 and 2011 (details at paragraph 6 below).
- 1.4 In support of the application, the applicant submitted the following documents:
 - (a) Application Form with attachments received on **(Appendix I)** 26.1.2023
 - (b) Supplementary Information (SI) received on 1.2.2023 **(Appendix Ia)**

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and SI at **Appendices I and Ia** respectively. They can be summarised as follows:

- (a) Planning permissions for temporary warehouse, recycling centre and open storage were granted in the vicinity of the Site.
- (b) The proposed use is compatible with the surrounding environment.
- (c) The proposed use is temporary in nature and would not jeopardise the long-term planning intention of the “AGR” zone.
- (d) No adverse 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 sending registered post to the Ha Tsuen Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. The “Owner’s Consent/Notification” Requirements under TPB PG-No. 31A are not applicable to the GL portion.

4. Background

A small part of the Site is the subject of an active planning enforcement case (No. E/YL-HTF/948) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) was issued on 14.12.2022 requiring discontinuation of the UD by 14.2.2023. The Site is being closely monitored under established practice.

5. Town Planning Board Guidelines

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) are relevant to the application. Part of the subject “AGR” zone where the Site is located as well as the adjacent “R(D)” zone fell within Category 3 Area under the previous TPB PG-No. 13E and have been changed to Category 2 Area under the prevailing TPB PG-No. 13F promulgated on 27.3.2020. Relevant extract of the Guidelines is at **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in ten previous applications for various temporary open storage, recycling centre, learning centre and animal boarding establishment uses. Nine of them were rejected and one was approved. Details of the applications are summarised at **Appendix III** and the locations are shown on **Plan A-1b**.
- 6.2 Six applications (No. A/YL-HT/64, 77, 368, 391, 453 and 744) for various temporary open storage uses with/without workshop were rejected by the Committee or the Board on review between 1999 and 2011 mainly on grounds that the development was not in line with the planning intention of the “AGR” zone; not in line with the then TPB PG-No.13C/13D/13E in that there were adverse departmental comments and insufficient information to demonstrate no environmental, traffic, drainage and landscape impacts; not compatible with the surrounding areas; and setting undesirable precedent.
- 6.3 Regarding the remaining four applications, one for temporary animal boarding establishment use was approved (application No. A/YL-HTF/1125) while three for temporary recycling centre and learning centre uses were rejected (applications No. A/YL-HTF/1093, 1096 and 1104) by the Committee or the Board on review between 2019 and 2020. The considerations for the applications are not relevant to the current application, which involves a different use.

7. Similar Applications

- 7.1 There are three similar applications for open storage or warehouse uses within the same “AGR” zone in the past five years. Two of them were approved and one was rejected. Details of the applications are summarised at **Appendix III**

and the locations are shown on **Plan A-1a**.

- 7.2 Applications No. A/YL-HTF/1133 and 1141 for temporary open storage and warehouse uses respectively were approved by the Committee in 2022 mainly on considerations that the development was in line with TPG PG-No. 13F; not incompatible with the surrounding areas; concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions.
- 7.3 Application No. A/YL-HTF/1092 for temporary warehouse uses was rejected by the Board on review in 2019 mainly on grounds that the development was not in line with the planning intention of the “AGR” zone; failure to demonstrate that the proposed development would not generate adverse landscape impact on the surrounding areas; and setting undesirable precedent.

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

8.1 The Site is:

- (a) partly used for warehouse and parking of container vehicles/trailers without valid planning permission, and partly vacant; and
- (b) accessible via a local track from Kai Pak Ling Road.

8.2 The surrounding areas have the following characteristics. Some of the uses are suspected UD's subject to planning enforcement action:

- (a) to the north and northeast are a warehouse and open storage yards (some of which are covered by valid planning permission under applications No. A/YL-HTF/1111, 1123 and 1136 in the adjacent “R(D)” zone);
- (b) to the east are some vacant land, an area used for storage and residential structures; and
- (c) to the south, southwest and west are some warehouses, open storage yards, vacant/unused land and residential structure.

9. 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.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 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 IV and V** respectively.

10.2 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” and “R(D)” zones 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 use is not supported from agricultural perspective.

11. Public Comments Received During the Statutory Publication Period

On 3.2.2023, the application was published for public inspection. During the statutory public inspection period, two public comments from an individual and Kadoorie Farm & Botanic Garden Corporation were received (**Appendices VII-1 and VII-2**) objecting to the application mainly on the grounds that the application is the subject of various rejected/withdrawn applications and the proposed use is not in line with the planning intention of the “AGR” zone.

12. Planning Considerations and Assessments

12.1 The application is for proposed temporary warehouse (storage of construction materials, metal and electronic parts) and open storage of construction materials for a period of three years at the Site zoned “AGR” on the OZP. 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 a period of three years would not frustrate the long-term planning intention of the “AGR” zone.

12.2 The Site is situated in an area of miscellaneous rural fringe predominated by open storage yards, warehouses (some of which are covered by valid planning permission) and vacant land. The proposed use is considered not incompatible with the surrounding areas.

12.3 The Site falls within Category 2 area under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 2 area: planning permission could be granted on a temporary basis up

to a maximum period of three years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The proposed use is generally in line with the TPB PG-No. 13F in that relevant government departments, including Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design & Landscape of Planning Department have no objection to or no adverse comment on the application. The proposed use will unlikely create adverse traffic, drainage, fire safety and landscape impacts to the surrounding areas. While the Director of Environmental Protection has no objection to the application, he advised that there were nine substantiated environmental complaints regarding air and water quality pertaining to the Site in the past three years. The complaints were related to a recycling centre operating at the Site, which has already ceased operation. The Site is currently partly vacant and partly occupied for warehouse use and parking of container vehicles/trailers. Nevertheless, to minimise any potential environmental nuisances and address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below.
- 12.5 The Committee or the Board have rejected six previous applications for temporary open storage use at the Site between 1999 and 2011, as well as one similar application for warehouse use within the same “AGR” zone in 2019. The planning considerations of the rejected applications are different from the current application mainly in that those developments were considered not in line with the then TPB PG-No.13C/13D/13E as there were adverse departmental comments and insufficient information to demonstrate no environmental, traffic, drainage and landscape impacts. On the other hand, the Committee has approved two similar applications for temporary open storage or warehouse uses within the same “AGR” zone in the past five years, mainly on considerations that the development was in line with the prevailing TPG PG-No. 13F; not incompatible with the surrounding areas; concerned government departments generally had no objection to the application and/or the technical concerns could be addressed by approval conditions. For the current application, relevant departments generally have no objection or no adverse comment and it is considered in line with TPB PG-No. 13F. Approval of this application is generally in line with the previous decisions of the Committee.
- 12.6 There were two public comments received during the statutory publication period objecting to the application mainly on grounds summarised in paragraph 11. The planning considerations and assessments in paragraphs 12.1 to 12.5 are relevant.

13. **Planning Department's Views**

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11 above, the Planning Department considers that the proposed temporary warehouse (storage of construction materials, metal and electronic parts) and open storage of construction materials could be tolerated for a period of three years.
- 13.2 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 17.3.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no medium or heavy goods vehicles exceeding 5.5 tonnes, as defined under the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site at any time during the planning approval period;
- (b) no workshop activities, as proposed by the applicant, are allowed on the Site at any time during the planning approval period;
- (c) the submission of a 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 17.9.2023;
- (d) in relation to (c) 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 17.12.2023;
- (e) in relation to (d) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (f) the provision of fire extinguisher(s) within **6 weeks** from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 28.4.2023;
- (g) 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 17.9.2023;
- (h) in relation to (g) 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 17.12.2023;
- (i) if any of the above planning condition (a), (b) or (e) 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;

- (j) if any of the above planning condition (c), (d), (f), (g) or (h) 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
- (k) 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 attached at **Appendix V**.

- 13.3 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.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 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.
- 14.3 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.

15. Attachments

Appendix I	Application Form with Attachments received on 26.1.2023
Appendix Ia	SI dated 1.2.2023
Appendix II	Extract of 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)

Appendix III	Previous and Similar Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	'Good Practice for Open Storage Sites' issued by the Fire Services Department
Appendices VII-1 and VII-2	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Vehicular Access Plan
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MARCH 2023**