

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1155

- Applicant** : Mr. 胡肇陞 represented by Ms. HUI Hang Yu (許幸如)
- Site** : Lot 298 RP (Part) in D.D.128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 2,970m²
- 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 Open Storage of Construction Materials for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary open storage of construction materials for a period of three years at the application site (the Site). 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 vacant with some temporary structures at the northeastern portion (**Plans A-2 and A-4**).
- 1.2 The Site is accessible via a local track leading from Deep Bay Road (**Plans A-2 and A-3**). As shown on the proposed layout plan at **Drawing A-1**, the Site will mainly be used for open storage of construction materials with the northeastern portion designated for manoeuvring purpose. There will be two loading/unloading bays for light goods vehicles. The operation hours will be from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays. There will be no operation on Sundays and public holidays. According to the applicant, all 12 existing trees at the Site will be retained (**Drawing A-2**). The proposed layout plan and tree survey plan are at **Drawings A-1 and A-2** respectively.
- 1.3 The Site is involved in two previous applications (No. A/YL-HT/504 and 1040), of which application No. A/YL-HT/504 for open storage use was rejected by the

Rural and New Town Planning Committee (the Committee) of the Board in 2007 (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)
12.6.2023
- (b) Supplementary Information (SI) received on (Appendix Ia)
13.6.2023
- (c) Further Information (FI) received on 18.7.2023 (Appendix Ib)
*[accepted and 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 Application Form and FI at **Appendices I and Ib** respectively. They can be summarised as follows:

- (a) Planning permissions for temporary warehouse and open storage uses were granted in the vicinity of the Site.
- (b) The proposed use is compatible with the surrounding environment.
- (c) There will be no tree felling at the Site. The operator will also avoid storing construction materials near the existing trees.
- (d) No adverse traffic, environmental, ecological and archaeological 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.

4. Background

The Site is currently not subject to any planning enforcement action.

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. 13G) are relevant to the application. The Site is located within Category 2 areas under the prevailing TPB PG-No. 13G promulgated on 14.4.2023. Relevant extract of the Guidelines is at **Appendix II**.

6. Previous Applications

- 6.1 The Site is involved in two previous applications for temporary open storage and training centre uses. Details of the applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-HT/504 for temporary open storage of construction machinery and material was rejected by the Committee in 2007 mainly on grounds that the development was not in line with the planning intention of the “AGR” zone, not compatible with the surrounding areas, not in line with the then TPB PG-No. 13D; adverse departmental and public comments; insufficient information to demonstrate no adverse traffic, environmental and drainage impacts; and setting undesirable precedent.
- 6.3 Application No. A/YL-HT/1040 for temporary training centre was rejected by the Board on review in 2017. The considerations for the application are not relevant to the current application, which involves a different use.

7. Similar Applications

- 7.1 There are two similar applications involving open storage use within the same “AGR” zone in the past five years. Details of the applications are summarised at **Appendix III** and the locations are shown on **Plan A-1**.
- 7.2 Applications No. A/YL-HTF/1133 and 1150 involving temporary open storage use were approved by the Committee in 2022 and 2023 respectively mainly on considerations that the development was in line with the then 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. Application No. A/YL-HTF/1133 also had policy support from the Development Bureau as it was to accommodate brownfield operations affected by the development of the Hung Shui Kiu/Ha Tsuen New Development Area.

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

- 8.1 The Site is:
 - (a) vacant with some temporary structures at the northeastern portion; and

- (b) accessible via a local track from Deep Bay Road.

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

- (a) to the north (including the area to the further north across Deep Bay Road) and northeast are open storage yards, areas used for parking, residential dwellings, scrubland and vacant land;
- (b) to the east are an area used for parking and residential dwellings; and
- (c) to the south, southwest and west are grassland/scrubland, a temple, residential dwellings and vacant land.

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):

- (a) the Site falls within the “AGR” zone and is vacant. Agricultural infrastructures such as road access and water source are 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; and
- (b) the Site is adjacent to the Ngau Hom Shek Egrettry. As there will be no building construction, tree felling and noisy works involved, he has no comment from nature conservation perspective.

11. Public Comments Received During the Statutory Publication Period

On 16.6.2023, 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 Site is involved in some rejected 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 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 temporary structures, village houses and woodland. The proposed use is considered generally not incompatible with the surrounding areas.

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

Category 2 areas: 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 or if required, 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. 13G in that relevant government departments, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department, Director of Fire Services and Chief Town Planner/Urban Design and Landscape of Planning Department have no objection to or no adverse comment on the application. The proposed use will unlikely create adverse traffic, environmental, drainage, fire safety and landscape impacts to the surrounding areas. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below.

12.5 The Committee has rejected a previous application for temporary open storage use at the Site in 2007. The planning considerations of the rejected application are different from the current application mainly in that the development was

considered not in line with the then TPB PG-No. 13D as there were adverse departmental comments and insufficient information to demonstrate no adverse traffic, environmental and drainage impacts. On the other hand, the Committee has approved two similar applications involving temporary open storage use within the same “AGR” zone in the past five years, mainly on considerations that the development was in line with the then 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, the Site falls within an area under Category 2 and relevant departments generally have no objection to or no adverse comment on the application. The application is considered in line with the prevailing TPB PG-No. 13G. 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 above 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 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 11.8.2026. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) no medium or heavy goods vehicle 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) 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 **11.2.2024**;
- (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 **11.5.2024**;
- (d) in relation to (c) above, the implemented drainage facilities shall be

maintained at all times during the planning approval period;

- (e) 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 **22.9.2023**;
- (f) 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 **11.2.2024**;
- (g) in relation to (f) 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 **11.5.2024**;
- (h) 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;
- (i) if any of the above planning condition (b), (c), (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 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 12.6.2023
Appendix Ia	SI dated 13.6.2023
Appendix Ib	FI dated 18.7.2023
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.13G)
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	Tree Survey Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
AUGUST 2023**