

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1158

- Applicant** : Excel Link Development Limited represented by R-riches Property Consultants Limited
- Site** : Lots 505 RP (Part), 506 (Part), 507 (Part), 508, 509 (Part) and 510 (Part) in D.D. 128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 9,794m²
- 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 Miscellaneous Goods for a Period of 3 Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse for storage of miscellaneous goods for a period of three years and associated filling of land at the application site (the Site) 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, as well as filling of land, require planning permission from the Town Planning Board (the Board). The Site is currently vacant and fenced off (**Plans A-2, A-4a and A-4b**).
- 1.2 According to the applicant, the application is to facilitate the relocation of their warehouse operation in various lots in D.D. 125, Ha Tsuen affected by the land resumption and clearance exercise under the Second Phase Development of the Hung Shui Kiu/Ha Tsuen New Development Area (HSK/HT NDA). Thus, there is an imminent need for the applicant to secure a relocation site to continue their affected operation. The proposed site area (i.e. 9,794m²) is of similar size as the area occupied by the current operation (i.e. 9,024m²) in Ha Tsuen.
- 1.3 The Site is accessible via a local track leading from Deep Bay Road (**Plans A-2 and A-3**). According to the applicant, the Site will be used for warehouse for storage of miscellaneous goods (including food, apparel, footwear, electronic

goods, etc.) No dangerous goods will be stored at the Site and no workshop activities will be carried out. Besides, the applicant proposes to pave the entire Site with concrete with a depth of not more than 0.2m for site formation of structures and provision of parking, loading/unloading (L/UL) and circulation spaces. The proposed layout plan, proposed land filling plan, tree preservation and landscape proposal, drainage proposal and vehicular access plan are at **Drawings A-1 to A-5** respectively.

- 1.4 The major development parameters of the current application are summarised as follows:

Site Area	about 9,794m ²
Extent of Filling of Land	about 9,794m ² (i.e. the entire Site, with a depth of not more than 0.2m)
Total Floor Area	about 15,621m ²
No. of Structures	5 (for warehouse, office, washroom, fire services pump room and rain shelter uses)
Height of Structures	3 to 13m (1 to 2 storeys)
Parking Spaces	2 for private cars (5m x 2.5m)
L/UL Spaces	3 for light goods vehicles (7m x 3.5m)
Operation Hours	7:00 a.m. to 11:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays

- 1.5 In support of the application, the applicant submitted the following documents:

- | | | |
|-----|---|----------------------|
| (a) | Application Form received on 27.7.2023 | (Appendix I) |
| (b) | Planning Statement | (Appendix Ia) |
| (c) | Supplementary Information (SI) received on 3.8.2023 | (Appendix Ib) |
| (d) | Further Information (FI) received on 25.9.2023 [#] | (Appendix Ic) |
| (e) | FI received on 27.10.2023 [*] | (Appendix Id) |
| (f) | FI received on 22.11.2023 [*] | (Appendix Ie) |
| (g) | FI received on 27.11.2023 [#] | (Appendix If) |
| (i) | FI received on 1.2.2024 [#] | (Appendix Ig) |

**accepted but not exempted from publication and
recounting requirements*

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recounting requirements*

- 1.6 On 22.9.2023, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Planning Statement and FI at **Appendices Ia and Id**. They can be summarised as follows:

- (a) The current application aims to relocate an existing warehouse operation affected by the Second Phase Development of the HSK/HT NDA.
- (b) The applicant has conducted a site search to identify a suitable site for relocation of the affected operation. The Site is considered the most suitable as it is nearest to the applicant's current operation in Ha Tsuen and easily accessible. The proposed development at the Site is of the same use and similar scale as the current operation in Ha Tsuen.
- (c) The proposed use is not incompatible with the surrounding areas. The temporary use will not jeopardise the long-term planning intention.
- (d) No adverse traffic, environmental, drainage and landscape impacts are anticipated. To compensate for the felling of 10 trees (including 9 *Leucaena leucocephala* 銀合歡, an invasive species) and mitigate the potential landscape impact, 14 new trees as well as vertical greening are proposed along the periphery of the Site.

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

The applicant is not a “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. **Previous Application**

The Site is involved in a previous application (No. A/YL-HTF/414) for temporary racing circuit use. The considerations of the application are not relevant to the current application, which involves a different use. Details of the application are summarised at **Appendix II** and the location is shown on **Plan A-1**.

6. **Similar Applications**

- 6.1 There are three similar applications involving warehouse use 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 II** and the locations are shown on **Plan A-1**.

Approved applications

- 6.2 Applications No. A/YL-HTF/1141 and 1150 located at the eastern end of the subject “AGR” zone involving temporary warehouse use were approved by the Committee in 2022 and 2023 respectively mainly on considerations that the development was 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. However, the planning permission under application No. A/YL-HTF/1141 was subsequently revoked.

Rejected application

- 6.3 Application No. A/YL-HTF/1092 for temporary warehouse use 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 an undesirable precedent.

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

- 7.1 The Site is:

- (a) vacant and fenced off with majority of the Site covered by vegetation;
- (b) accessible via a local track leading from Deep Bay Road; and
- (c) within the Ngau Hom Shek Site of Archaeological Interest.

- 7.2 The surrounding areas are predominated by vacant/unused land, ponds and cultivated/fallow agricultural land, intermixed with residential dwellings, areas used for storage/open storage and parking of vehicles which are suspected unauthorized developments subject to planning enforcement action. To the east of the Site is a temporary open storage yard covered by valid planning permission under application No. A/YL-HTF/1133¹ under implementation.

¹ Application No. A/YL-HTF/1133 (with a site area of about 8 ha) for temporary open storage use and filling of land and pond was to accommodate brownfield operations affected by the development of the HSK/HT NDA (**Plan A-1**). The application has obtained policy support from the Development Bureau and was approved with conditions by the Committee in June 2022.

8. Planning Intention

- 8.1 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.
- 8.2 As filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas and adverse impacts on the natural environment, permission from the Board is required for such activities.

9. Comments from Relevant Government Bureau/Departments

- 9.1 Apart from the government bureau/departments 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 bureau supports the application:

Policy Support

9.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application is to facilitate relocation of a brownfield operation for a warehouse operation in Yuen Long, which will be displaced by the Second Phase development of the HSK/HT NDA (the NDA project);
- (b) according to the applicant, a site search had been carried out with a view to identifying suitable site for re-establishment of its business affected by the site clearance under the NDA project, and the site under the current application is the one considered most suitable after the site search. It is noted that the size of the application site is comparable to its current operation to be cleared by the Government; and
- (c) according to the concerned departments, the proposed use is not entirely incompatible with the surrounding areas and would not create insurmountable impacts in technical terms subject to imposition of appropriate approval conditions. To facilitate the provision of operating space for displaced brownfield operations still needed by the community, the application is supported from the policy perspective.

- 9.3 The following government department does not support the application:

Agriculture

9.3.1 Comments of the Director of Agriculture, Fisheries and Conservation

(DAFC):

- (a) the Site falls within the “AGR” zone and part of the Site was under active farming as at 14 August 2023 at the time of site inspection carried out by his department. Agricultural activities are active in the vicinity and 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 non-agricultural development at the Site is not supported from agricultural perspective; and
- (b) no comment from nature conservation perspective.

10. Public Comments Received During the Statutory Publication Periods

During the statutory public inspection periods, seven public comments from an individual (3 comments) and Kadoorie Farm & Botanic Garden Corporation (4 comments) were received (**Appendices V-1 to V-7**) objecting to the application mainly on the grounds that the proposed use is not in line with the planning intention of the “AGR” zone; no previous approval for the Site; adverse drainage impact; inefficient use of land; and setting an undesirable precedent.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse for storage of miscellaneous goods for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. While the proposed use is not in line with the planning intention of the “AGR” zone and 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, taking into account the planning assessments below, it is considered that the proposed use on a temporary basis of three years may warrant sympathetic consideration and could be tolerated.
- 11.2 According to the applicant, the application is to facilitate the relocation of existing business operation affected by the Second Phase Development of HSK/HT NDA and it has undergone a thorough site selection process before identifying the Site as the most suitable relocation site. In this regard, the Site is located in proximity to the current operation in Ha Tsuen, and the size of the Site (i.e. about 9,794m²) is comparable to its current operation (i.e. about 9,024m²). To facilitate smooth clearance for the HSK/HT NDA Development and provide operating space for displaced brownfield operations still needed by the community, SDEV supports the application from policy perspective.
- 11.3 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the

adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no objection from drainage and environmental perspectives.

- 11.4 The Site is situated in an area of rural landscape character predominated by vacant/unused land and ponds. To its immediate east is a site under construction for temporary open storage use under application No. A/YL-HTF/1133 approved by the Committee in June 2022 and implementation is in progress. Considering the overall landscape context of the surrounding environment, the proposed use is considered not entirely incompatible with the surrounding areas. While 10 existing trees (including invasive species) at the Site are proposed to be felled, the applicant has submitted a tree preservation and landscape proposal with 14 new trees and vertical greening to enhance the amenity of the Site and mitigate the landscape impact. In this regard, the Chief Town Planner/Urban Design & Landscape of Planning Department (CTP/UD&L, PlanD) has no comment on the application from landscape point of view.
- 11.5 Other relevant government departments, including the Commissioner for Transport, DEP, CE/MN of DSD and Director of Fire Services have no objection to or no adverse comment on the application from traffic, environmental, drainage and fire safety perspectives. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. The applicant will also be advised to follow the latest Code of Practice to minimise any potential environmental nuisance on the surrounding areas.
- 11.6 While there is a similar application within the same “AGR” zone rejected by the Board in 2019, the Committee has approved two similar applications involving warehouse use in the eastern part of the same “AGR” zone in 2022 and 2023. Taking into consideration the justifications provided by the applicant, policy support from SDEV and similar approvals within the same “AGR” zone, approval of this application is not in conflict with the previous decisions of the Committee.
- 11.7 There were seven public comments received during the statutory publication periods objecting to the application mainly on grounds summarised in paragraph 10. The planning considerations and assessments in paragraphs 11.1 to 11.6 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 above, the Planning Department considers that the proposed temporary warehouse for storage of miscellaneous goods for a period of three years and associated filling of land could be tolerated for a period of three 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 three years until 16.2.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle exceeding 5.5 tonnes, including medium goods vehicle, heavy goods vehicle and container trailer/tractor, as defined in the Road Traffic Ordinance, is allowed to enter/exit or to be parked/stored on the Site, as proposed by the applicant, 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 **16.8.2024**;
- (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 **16.11.2024**;
- (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 **16.8.2024**;
- (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 **16.11.2024**;
- (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;
- (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; and
- (i) 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 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 with associated filling of land 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 27.7.2023
Appendix Ia	Planning Statement
Appendix Ib	SI dated 3.8.2023
Appendix Ic	FI dated 25.9.2023
Appendix Id	FI dated 27.10.2023
Appendix Ie	FI dated 22.11.2023
Appendix If	FI dated 27.11.2023
Appendix Ig	FI dated 1.2.2024
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendices V-1 to V-7	Public Comments
Drawing A-1	Proposed Layout Plan
Drawing A-2	Proposed Land Filling Plan
Drawing A-3	Tree Preservation and Landscape Proposal
Drawing A-4	Drainage Proposal
Drawing A-5	Vehicular Access 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
FEBRUARY 2024**