

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-HTF/1160

- Applicant** : Mr. 鄧志遠
- Site** : Lot 504 (Part) in D.D.128, Ha Tsuen, Yuen Long, New Territories
- Site Area** : About 520m²
- 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** : Temporary Storage of Metalware and Tools and Private Vehicle Park (Private Cars Only) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary storage of metalware and tools and private vehicle park (private cars only) 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 formed, occupied by temporary structures and mainly used for storage without valid planning permission (**Plans A-2, A-4a and A-4b**).
- 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 layout plan at **Drawing A-1**, four structures with a total floor area of about 380m² and building height of not more than 4m (1 storey) will be used for storage of metalware and tools, shelter for parking spaces, resting area and toilet uses. There will be six parking spaces for private cars. According to the applicant, no workshop activity (including car washing and repairing) will be carried out at the Site and no medium or heavy goods vehicle is allowed to enter/exit from the Site. The operation hours will be from 10:00 a.m. to 10:00 p.m. daily.
- 1.3 In support of the application, the applicant submitted the following documents:

- (a) Application Form with attachments received on **(Appendix I)**
24.8.2023
- (b) Supplementary Information (SI) received on **(Appendix Ia)**
29.8.2023
- (c) Further Information (FI) received on 18.9.2023* **(Appendix Ib)**
- (d) FI received on 25.9.2023* **(Appendix Ic)**

**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, SI and FI at **Appendices I, Ia and Ic** respectively. They can be summarised as follows:

- (a) Metalware and tools will be stored within converted containers for security reasons. The containers will be fully enclosed and will only be opened when the metalware and tools are to be used. The private vehicle park is intended to serve the users of the Site and to minimise blockage of access roads.
- (b) The applicant will make use of the existing structures on the Site and no site formation works will be required.

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

Majority of the Site is the subject of an active planning enforcement action (case No. E/YL-HTF/954) against unauthorized development (UD) involving storage use (**Plan A-2**). Enforcement Notice (EN) was issued on 12.9.2023 requiring discontinuation of the UD by 12.11.2023. If the EN is not complied with, prosecution action may be taken by the Planning Authority.

5. Previous Application

The Site is involved in a previous application (No. A/YL-HT/414) for temporary racing circuit use rejected by the Rural and New Town Planning Committee (the Committee) in 2005. The considerations of the application are not relevant to the current

application, which involves a different use. Details of the application is summarised at **Appendix II** and the location is shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are three similar applications involving temporary warehouse uses (which is akin to the storage use applied under the current application) 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**.
- 6.2 Applications No. A/YL-HTF/1141 and 1150 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.
- 6.3 Application No. A/YL-HTF/1092 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.

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

- 7.1 The Site is:
- (a) formed, occupied by temporary structures and mainly used for storage without valid planning permission; and
 - (b) accessible via a local track leading from Deep Bay Road.
- 7.2 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 vacant/unused land and an area used for parking of vehicles. To the further north across Deep Bay Road are residential dwellings, cultivated agricultural land, ponds and vacant/unused land;
 - (b) to the east and southeast are a watercourse, cultivated agricultural land, vacant/unused land, a temporary open storage yard covered by valid planning permission under application No. A/YL-HTF/1133¹ and under implementation, a residential dwelling, an area used for storage and a

¹ Application No. A/YL-HTF/1133 for temporary open storage use and filling of land and ponds was to accommodate brownfield operations affected by the development of the Hung Shui Kiu/Ha Tsuen New Development Area. The application has obtained policy support from the Development Bureau and was approved with conditions by the Committee in June 2022.

warehouse;

- (c) to the south and southwest are an area used for gardening, fallow agricultural land and unused land; and
- (d) to the west are an open storage yard and vacant land.

8. Planning Intention

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.

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):

- (a) the Site falls within the “AGR” zone and is generally occupied by 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 applied use is not supported from agricultural perspective;
- (b) he has no adverse comment from nature conservation perspective; and
- (c) should the application be approved, the applicant is advised to note his advisory comments at **Appendix IV**.

10. Public Comment Received During the Statutory Publication Period

On 1.9.2023, the application was published for public inspection. During the statutory public inspection period, one public comment from an individual was received (**Appendix V**) expressing concerns on the ecological condition in the area and that there was no previous approval for brownfield use at the Site.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary storage of metalware and tools and private vehicle park (private cars only) for a period of three years at the Site zoned “AGR” on the OZP. The applied 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. 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. There is no strong planning justification given in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is situated in an area of rural landscape character predominated by residential dwellings, active/fallow agricultural land, ponds and vacant/unused land (**Plans A-2 and A-3**). While the Chief Town Planner/Urban Design & Landscape of Planning Department is of the view that further significant landscape impact arising from the applied use is not anticipated, the applied storage use is considered not compatible with the surrounding areas.
- 11.3 Other relevant government departments, including the Commissioner for Transport, Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no objection to or no adverse comment on the application. The applied use will unlikely create adverse traffic, environmental, drainage and fire safety impacts to the surrounding areas.
- 11.4 The Board has rejected a similar application for warehouse use within the same “AGR” zone in 2019 mainly on the grounds that the development was not in line with the planning intention; failure to demonstrate no adverse landscape impact; and setting undesirable precedent. On the other hand, while the Committee has approved two similar applications involving warehouse use in 2022 and 2023, those proposed developments are situated at the fringe of the subject “AGR” zone adjoining the “Residential (Group D)” (“R(D)”) zone and brownfield uses, including open storage, warehouse and recycling centre (some of which are covered by valid planning permission), are prevalent in that area. The planning circumstances of those approved applications are different from the current application, in that the Site is located at the centre of the western portion of the subject “AGR” zone which is still predominantly rural in character. Approval of the current application may lead to proliferation of development into the subject portion of the “AGR” zone, resulting in general degradation of the rural environment of the area. Rejecting the current application is not in conflict with the previous decisions of the Committee.
- 11.5 There is one public comment received during the statutory publication period expressing concerns on the application mainly on grounds summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 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 comment mentioned in paragraph 10 above, the Planning Department does not support the application for the following reason:

the applied 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.

- 12.2 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 13.10.2026. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no vehicle without valid licence issued under the Road Traffic Ordinance is allowed to be parked/stored on the Site at any time during the planning approval period;
- (b) only private car as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (c) no workshop activity, as proposed by the applicant, is allowed on the Site at any time during the planning approval period;
- (d) 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 13.4.2024;
- (e) in relation to (d) 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 13.7.2024;
- (f) in relation to (e) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (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 13.4.2024;
- (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 13.7.2024;

- (i) if any of the above planning condition (a), (b), (c) or (f) 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 (d), (e), (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 IV**.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 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.

14. Attachments

Appendix I	Application Form with Attachments received on 24.8.2023
Appendix Ia	SI dated 29.8.2023
Appendix Ib	FI dated 18.9.2023
Appendix Ic	FI dated 25.9.2023
Appendix II	Previous and Similar Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Layout 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 2023**