

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/1052

<u>Applicant</u>	: Sheen Power Capital Investment Limited represented by DeSPACE (International) Limited
<u>Site</u>	: Lots 956 and 959 RP in D.D. 107, Fung Kat Heung Road, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	: About 2,055.6m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/11
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Warehouse (Excluding Dangerous Goods Godown) for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary warehouse (excluding dangerous goods godown) for a period of three years and associated filling of land at the application site (the Site), which 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 not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). Filling of land in the “AGR” zone also requires planning permission from the Board. The Site is currently fenced-off, paved, and largely vacant with a temporary structure (**Plans A-2 to A-4**).
- 1.2 The Site abuts Mei Fung Road (**Plans A-2 and A-3**). According to the applicant, the proposed use for storage of wooden products involves one single-storey structure with building height of not more than 5m and a floor area of about 930m² for warehouse (**Drawing A-1**). The uncovered area within the Site will not be used for storage. No workshop or industrial activities will be carried out at the Site. The applicant also applies for regularisation of filling of land for the entire Site with concrete of not more than 0.2m in depth (to a level of about 8.7mPD) for site formation and circulation (**Drawing A-2**). One parking space for private car and one loading/unloading space for light goods vehicle will be provided. The proposed operation hours will be between 9 a.m. and 7 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The site layout

plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

1.3 The Site is the subject of two previous applications, including the last approved application No. A/YL-KTN/824 submitted by the same applicant for the same use and with a slightly reduced site area, slightly increased floor area and same layout as the current application. The planning permission under application No. A/YL-KTN/824 was revoked in February 2024 due to non-compliance with approval conditions (details at paragraph 5 below).

1.4 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with attachments received on 9.9.2024 (**Appendix I**) and 13.9.2024
- (b) Further Information (FI) received on 22.10.2024* (**Appendix Ia**)
- (c) FI received on 23.10.2024* (**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 to Ib** and can be summarised as follows:

- (a) The proposed use is temporary in nature and will not frustrate the long-term planning intention of the “AGR” zone. The proposed use can utilise scarce land resources and there are similar applications approved in the vicinity of the Site. The proposed use is considered not incompatible with the surrounding areas.
- (b) The planning permission under the last application was revoked due to non-compliance with the approval conditions related to implementation of drainage and fire service installations (FSIs) proposals. In this regard, the applicant has submitted drainage and FSIs proposals incorporating the latest development parameters. The proposed use will not induce adverse drainage, fire safety, traffic and environmental impacts on the surrounding areas.

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

The applicant is the sole ‘current land owner’ of the Site. Detailed information would be deposited at the meeting for Member’s inspection.

4. Background

The Site is currently not subject to any active planning enforcement action. Subject to collection of sufficient evidence, appropriate enforcement action under the Town Planning Ordinance would be undertaken.

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTN/690 and 824). Application No. A/YL-KTN/690 for temporary hobby farm is not relevant to the current application. Application No. A/YL-KTN/824 for temporary warehouse for a period of three years and filling of land, which was submitted by the same applicant with similar development parameters as the current application, was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board in May 2022 mainly on the considerations that temporary approval would not frustrate the long-term planning intention of the “AGR” zone; the proposed use was not incompatible with the surrounding land uses; and the relevant government departments consulted generally had no adverse comment or their technical concerns could be addressed by approval conditions. The planning permission under application No. A/YL-KTN/824 was subsequently revoked in February 2024 due to non-compliance with the approval conditions related to implementation of drainage and FSIs proposals.
- 5.2 Details of the previous applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

6. Similar Applications

- 6.1 There are 26 similar applications for temporary warehouse (including one for renewal of temporary approval granted, 25 with filling of land/pond, and one also involving open storage) within the same “AGR” zone in the vicinity of the Site in the past five years. All these applications were approved with conditions by the Committee between June 2020 and October 2024 on the similar considerations as mentioned in paragraph 5.1 above. The planning permissions under applications No. A/YL-KTN/852, 890, 898 and 938 were subsequently revoked between January and September 2024 due to non-compliance with approval conditions.
- 6.2 Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

- 7.1 The Site:
- (a) is currently fenced-off, paved, and largely vacant with a temporary structure; and
 - (b) abuts Mei Fung Road.
- 7.2 The surrounding areas are rural in character with an intermix of open storage/storage yards, parking of vehicles, residential structures, grassland, hobby farm, farmland and vacant land.

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 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from the Relevant Government Departments

- 9.1 Apart from the government department as set out in paragraphs 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 in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.
- 9.2 The following government department does not support the application:

Agriculture and Nature Conservation

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
 - (b) the Site falls within the “AGR” zone and is generally vacant. The 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 and plant nurseries; and
 - (c) no comment on the application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Period

On 17.9.2024, the application was published for public inspection. During the statutory public inspection period, two public comments were received from the Conservancy Association and an individual objecting to the application mainly on the grounds that the approval conditions under the previous application were not complied with; the proposed use is not in line with the planning intention of the “AGR” zone; and there will be adverse drainage and environmental impacts (**Appendix V**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). The planning intention of the “AGR” zone is primarily 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. Whilst the proposed use is not in line with the planning intention of the “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the proposed use on a temporary basis for a period of three years could be tolerated.
- 11.2 Filling of land in the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from drainage and environmental perspectives respectively. An approval condition requiring reinstatement of the Site to an amenity area upon expiry of the planning permission is recommended should the Committee decide to approve the application.
- 11.3 The proposed use is considered not incompatible with the surrounding land uses which are rural in character with an intermix of open storage/storage yards, parking of vehicles, residential structures, hobby farm, grassland and vacant land. The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no objection to the application from landscape planning perspective considering that significant adverse landscape impact is not anticipated.
- 11.4 Other relevant government departments consulted, including the Commissioner for Transport and Director of Fire Services, have no objection to or no adverse comment on the application. 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 revised ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ to minimise any potential environmental nuisance caused by the proposed use.
- 11.5 The Site is involved in a previously approved application (No. A/YL-KTN/824), which was submitted by the same applicant for the same use with similar development parameters as stated in paragraph 5.1. The planning permission was revoked due to non-compliance with the approval conditions related to implementation of drainage and FSIs proposals. In this regard, the applicant has submitted the relevant drainage and FSIs proposals in support of the current application. Should the Committee decide to approve the application, the applicant will be advised that should he fail to comply with the approval conditions again resulting in revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 11.6 Given there is a previously approved application for the same applied use and 26 approved similar applications for temporary warehouse use within the same

“AGR” zone in the vicinity of the Site in the past five years as mentioned in paragraph 6.1 above, approving the current application is in line with the Committee’s previous decisions.

- 11.7 Regarding the public comments mentioned in paragraph 10, the departmental comments and planning assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 above and having taken into account the public comments mentioned in paragraph 10 above, PlanD considers that the proposed use 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 8.11.2027. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) the submission of a revised drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.5.2025;
- (b) in relation to (a) above, the implementation of the drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 8.8.2025;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a revised fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.5.2025;
- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 8.8.2025;
- (f) if the above planning condition (c) 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;
- (g) if any of the above planning condition (a), (b), (d) or (e) 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
- (h) 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 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. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. There is no strong planning justification 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 with attachments received on 9.9.2024 and 13.9.2024
Appendix Ia	FI received on 22.10.2024
Appendix Ib	FI received on 23.10.2024
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan

Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
NOVEMBER 2024**