

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTN/824

<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, Kam Tin, Yuen Long, New Territories
<u>Site Area</u>	:	About 2,057.92m 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/9
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Warehouse (excluding Dangerous Goods Godown) for a Period of 3 Years and 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 3 years and filling of land at the application site (the Site). The Site falls within an area zoned “AGR” on the approved Kam Tin North OZP (**Plan A-1**) and the proposed use is neither a Column 1 nor Column 2 use in the “AGR” zone. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone requires planning permission from the Board notwithstanding that the use is not provided for in terms of the OZP. Filling of land also requires planning permission from the Board. The Site is currently hard paved and mostly fenced and vacant with some building works in progress (**Plans A-2 and A-4**).
- 1.2 The Site is the subject of a previous application (No. A/YL-KTN/690) for a different use approved by the Committee in January 2020 as detailed in paragraph 5 below.

- 1.3 According to the applicant, the proposed temporary warehouse is for storage of wooden products such as wooden board. The proposed development involves the erection of one 1-storey structure with floor area of about 909.15m² and a height of not exceeding 5m for warehouse use. The whole site has been filled with concrete by not more than 0.2m in depth (from about +8.5mPD to +8.7mPD) for site formation, construction of structure and circulation space. A disabled car parking space and a loading / unloading space for light goods vehicles will be provided at the Site. The operation hours are between 9:00 a.m. and 7:00 p.m. from Mondays to Saturdays, and no operation on Sundays and public holidays. The Site is accessible from Fung Kat Heung Road via Mei Fung Road (**Plans A-1 and A-2**). The site layout and paved ratio plans submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement (**Appendix I**) received on 11.2.2022
 - (b) Further Information (FI) received on 28.3.2022 (**Appendix Ia**)
 - (c) FI received on 3.5.2022 (**Appendix Ib**)
- 1.5 In view of COVID-19 and the latest special work arrangement for government departments announced by the Government, the Rural and New Town Planning Committee (the Committee), on 1.4.2022, agreed to defer making a decision on some of the applications, including Application No. A/YL-KTN/824. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application form, supplementary planning statement and FIs at **Appendices I to Ib** respectively as summarized below:

- (a) the application is temporary in nature and would not frustrate the long-term planning intention of the “AGR” zone. The proposed development can better utilize a piece of vacant land and help create employment opportunities;
- (b) the land filling works are for regularizing the existing conditions of the Site and the extent has been minimized to meet its operational need;
- (c) the proposed development is not incompatible with the surrounding land uses which are rural in character. Similar approved applications for open storage and port

back-up uses could be found in the same “AGR” zone and the adjoining “Industrial (Group D)” zone to the north of the Site; and

- (d) the proposed development would not generate adverse traffic, landscape, visual and environmental impacts to the surrounding areas. Adequate space for manoeuvring within the Site will be provided and no queuing up of vehicles along Mei Fung Road is anticipated.

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

The applicant is the sole “current land owner”. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not the subject of any active enforcement action.

5. **Previous Application**

- 5.1 The Site is involved in a previously approved application (No. A/YL-KTN/690) for proposed temporary hobby farm submitted by a different applicant as the current application which is not relevant to the current application.
- 5.2 Details of the previous application is summarized at **Appendix II** and the location is shown on **Plan A-2**.

6. **Similar Applications**

- 6.1 There are three similar applications (No. A/YL-KTN/565, 709 and 786) for similar warehouse / temporary warehouse use within the “AGR” zone in the vicinity of the Site in the past 5 years (**Plan A-1**). All applications were approved with conditions by the Committee between July 2017 and October 2021 mainly on the grounds that temporary approval would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding land uses; and relevant departments generally had no adverse comments or their technical concerns could be addressed through approval conditions.
- 6.2 Details of the similar applications are summarized at **Appendix II** and the locations are shown on **Plan A-1**.

7. The Site and Its Surrounding Areas (Plans A-2 to A-4)

7.1 The Site is:

- (a) hard-paved, mostly fenced and vacant with some building works in progress; and
- (b) accessible from Fung Kat Heung Road via Mei Fung Road.

7.2 The surrounding areas have the following characteristics:

- (a) to its immediate north are a hobby farm and a dog kennel (with valid planning permissions), a vacant site approved for temporary animal boarding establishment use, a caravan holiday camp (with valid planning permission), residential dwellings / structures, parking of vehicles and active agricultural land;
- (b) to its immediate south is a site for hobby farm (but the site is approved for temporary hobby farm under Application No. A/YL-KTN/705). To its further south are residential dwellings / structures, a plant nursery and active agricultural land;
- (c) to its east and southeast are active agricultural land and a vacant structure; and
- (d) to its west and northwest across Mei Fung Road are a few hobby farms, residential dwellings / structures 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, 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 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 in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

- 9.2 The following government department has objection to / reservation on the application.

Agriculture and Nature Conservation

- 9.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the agricultural activities are active in the vicinity and agricultural infrastructures such as road accesses 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 development falling within the “AGR” zone is not supported from agricultural perspective; and
- (b) from nature conservation point of view, DAFC has no adverse comment on the application.

10. Public Comments Received During Statutory Publication Period (Appendix V)

The application was published for public inspection. During the statutory public inspection period, six public comments were received from the Conservancy Association, Kadoorie Farm & Botanic Garden Corporation and four individuals. The commenters object to the application mainly on the grounds that the proposed development will create adverse drainage, environmental and traffic impacts and increase fire safety risk thus affecting the living quality of the nearby villagers; no detailed information about the proposal is provided; the proposed development is not in line with the planning intention; the Site is involved in unauthorized development and approval of the application would set an undesirable precedent; and the Site falls within the Sha Po area and the nearby villagers should be consulted on future applications.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary warehouse (excluding dangerous goods godown) for a period of 3 years and filling of land (by about 0.2m in depth) in the “AGR” zone (**Plan A-1**). 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other

agricultural purposes. DAFC does not support the application as the Site falling within the “AGR” zone, which has potential for agricultural rehabilitation. Nevertheless, it is considered that 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. Filling of land in the “AGR” zone requires planning permission from the Board. In this regard, CE/MN of DSD and DEP have no adverse comment from the drainage and environmental perspectives.

- 11.2 The proposed use is considered not incompatible with the surrounding area which is rural in character intermixed with dog kennel, hobby farms, caravan holiday camp, active agricultural land, residential structures / dwellings, parking of vehicles and vacant land / structures.
- 11.3 The proposed use, involving the storage of wooden products and only light goods vehicles will be used, will unlikely result in significant adverse traffic, environmental, drainage and landscape impacts to the surrounding areas. Relevant departments consulted including C for T, DEP, CE/MN of DSD, D of FS and CTP/UD&L of PlanD have no adverse comment on the application. To minimise any potential environmental nuisances and to address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimise the possible environmental impacts on the surrounding areas.
- 11.4 The Site is the subject of a previous application (No. A/YL-KTN/690) approved by the Committee in 2020 for a proposed temporary hobby farm and is not relevant to the current application.
- 11.5 There are three similar applications (No. A/YL-KTN/565, 709 and 786) within the “AGR” zone approved for similar temporary warehouse use in the vicinity of the Site (**Plan A-1**). All applications were approved with conditions by the Committee between July 2017 and October 2021 for reasons as stated in paragraph 6 above. The planning circumstances of the current application are similar to the approved similar applications. Approval of the current application is in line with the Committee’s previous decisions.
- 11.6 Regarding the public comments on the application as detailed in paragraph 10 above, government departments’ comments and planning assessments 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, the Planning Department

considers that the proposed temporary warehouse (excluding dangerous goods godown) and filling of land could be tolerated for a period of 3 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 6.5.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 7:00 p.m. and 9:00 a.m. from Mondays to Saturdays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no recycling, cleaning, repairing, dismantling work nor other workshop activities 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 planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.11.2022;
- (e) in relation to (d) 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 6.2.2023;
- (f) in relation to (e) above, the implemented drainage facilities on the Site 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 planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.11.2022;
- (h) in relation to (g) 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 6.2.2023;
- (i) if any of the above planning conditions (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; and

- (j) if any of the above planning conditions (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.

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 development is not in line with the planning intention of the "AGR" zone which is to retain and safeguard good quality agricultural land/farm/fish pond for agricultural purposes. The zone is also intended to retain fallow arable land with good potential for rehabilitation. 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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application form with supplementary planning statement received on 11.2.2022
Appendix Ia	FI received on 28.3.2022
Appendix Ib	FI received on 3.5.2022
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	Paved ratio plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plan A-4	Site photos

**PLANNING DEPARTMENT
MAY 2022**