

RNTPC Paper No. A/YL-SK/369A  
For Consideration by the  
Rural and New Town  
Planning Committee  
on 4.10.2024

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-SK/369**

**Applicant** : Wan Kei Geotechnical Eng Co. Ltd.

**Site** : Lots 1082 (Part) and 1083 S.A (Part) in D.D.106, Pat Heung, Yuen Long

**Site Area** : 1,580m<sup>2</sup> (about)

**Lease** : Block Government Lease (demised for agricultural use)

**Plan** : Approved Shek Kong Outline Zoning Plan (OZP) No. S/YL-SK/9

**Zoning** : “Agriculture” (“AGR”)

**Application** : Temporary Open Storage of Construction Machineries and Materials for a Period of 3 Years and Filling of Land

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of construction machineries and materials for a period of three years and filling of land at the application site (the Site), which falls within an area zoned “AGR” on the approved Shek Kong OZP No. S/YL-SK/9 (**Plan A-1**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. Besides, filling of land within “AGR” zone also requires planning permission from the Board. The Site is fenced off, entirely hard-paved with concrete and erected with some structures, and currently used for the applied use without valid planning permission (**Plans A-3 and A-4**).
- 1.2 While the Site is accessible from Kam Sheung Road via a local track (**Plans A-1 to A-3**), the applicant proposes to route through an adjacent site for access (**Drawing A-1**). According to the applicant, the applied use involves open storage of construction machineries (including air receiver, water pump, grout pump etc.) and materials (including casing, drill rod, water tank, beam etc.) and two parking spaces for light goods vehicle and medium goods vehicle (**Drawing A-2**). The applicant also applies for regularisation of filling of land for the entire Site with concrete of about 0.12m in depth (from +14.0mPD to +14.12mPD) for provision of a relatively flat and solid surface for open storage operation (**Drawing A-3**).

The operation hours are from 8:00 a.m. to 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The vehicular access plan, site layout plan and land filling plan submitted by the applicant are at **Drawings A-1, A-2 and A-3** respectively.

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

- (a) Application Form with supplementary information (**Appendix I**) received on 15.4.2024
- (b) Further Information (FI) received on 7.8.2024\* (**Appendix Ia**)

*\* accepted and exempted from publication and recounting requirements*

1.4 On 7.6.2024, 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 Application Form with supplementary information and FI at **Appendices I and Ia**, and can be summarised as follows:

- (a) The Site is adjacent to another open storage site of the applicant's company. The goods vehicles serving the Site will route through that site and use the same ingress/egress for access (**Drawing A-1**). Hence, there would be no adverse traffic impact on the local track.
- (b) No dangerous goods or polluting goods will be stored at the Site. As such, there would be no significant environmental nuisance.
- (c) No structure will be erected at the Site. Hence, the applied use would not create significant adverse drainage impact on the surrounding areas.
- (d) The applied filling of land is necessary for provision of a relatively flat and solid surface for open storage operation.

## 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. 31B) by posting site notices at the Site and sending notice to the Pat Heung Rural Committee by registered post. Detailed information would be deposited at the meeting for Members' inspection.

#### 4. **Background**

The Site is subject to planning enforcement action (No. E/YL-SK/257) against unauthorised development (UD) involving storage use. Enforcement Notice (EN) was issued on 6.12.2023 requiring discontinuation of the UD. Since the case involves complicated ownership issue, the Site is under close monitoring.

#### 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) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 areas under TPB PG-No. 13G, and relevant extracts of which is at **Appendix II**.

#### 6. **Previous Application**

There is no previous application covering the Site.

#### 7. **Similar Applications**

7.1 There are two similar applications (No. A/YL-SK/350 and 384) involving two different sites for temporary open storage (including filling of land) within the same “AGR” zone in the vicinity of the Site in the past five years. The two applications were approved with conditions by the Committee on 12.1.2024 and 20.9.2024 respectively mainly on the considerations that the applied use on a temporary basis could be tolerated; the applied use was not incompatible with the surrounded land uses; the application was generally in line with TPB PG-No. 13G; and there was no adverse government departmental comment or their technical concerns could be addressed by relevant approval conditions.

7.2 Details of the similar applications are summarised in **Appendix III** and their locations are shown on **Plan A-1**.

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

8.1 The Site is:

- (a) fenced off, entirely hard-paved with concrete and erected with some structures;
- (b) currently used for the applied use without valid planning permission; and
- (c) accessible from Kam Sheung Road via a local track.

8.2 The surrounding areas are rural in character comprising mainly vegetated vacant lands, fallow farmlands, residential structures, scattered tree group, and open

storages to the west within the “Industrial (Group D)” (“I(D)”) zone and to the south and east within the same “AGR” zone.

## 9. **Planning Intention**

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP for the “AGR” zone, as filling of land/pond may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

## 10. **Comments from Relevant Government Departments**

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

### **Agriculture and Nature Conservation**

- 10.2.1 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):
  - (a) he 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 a cemented vacant land. 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 greenhouses, plant nurseries, etc.; and
  - (c) no comment from nature conservation perspective.

## 11. **Public Comments Received During Statutory Publication Period**

The application was published for public inspection on 23.4.2024. During the statutory public inspection period, two public comments were received respectively from an individual and Kadoorie Farm & Botanic Garden Corporation raising concerns on whether the applied use is in line with the planning intention of “AGR” zone, and any enforcement action has been taken against the applied use at the Site prior to planning approval (**Appendices VI-1 to VI-2**).

## **12. Planning Considerations and Assessments**

- 12.1 The applicant seeks planning permission for temporary open storage of construction machineries and materials for a period of three years and 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 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. While the applied use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, taking into account the planning assessments below, the applied use on a temporary basis of three years with associated filling of land could be tolerated.
- 12.2 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 of DSD) and Director of Environmental Protection (DEP) have no objection to the application from drainage and environment perspectives respectively. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The applied use is considered not incompatible with the surrounding uses which are rural in character comprising mainly vegetated vacant lands, fallow farmlands, residential structures, scattered tree group, and open storages to the west within the “I(D)” zone and to the south and east within the same “AGR” zone. The Chief Town Planner/Urban Design and Landscape of Planning Department (CTP/UD&L of PlanD) has no objection to the application from landscape planning perspective.
- 12.4 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.
- 12.5 The application is considered generally in line with TPB PG-No. 13G in that relevant government departments consulted including the Commissioner for Transport, CE/MN of DSD, CTP/UD&L of PlanD, DEP and the Director of Fire Services have no objection to or no adverse comment on the application from traffic, drainage, visual and landscape, environment and fire safety perspectives respectively. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 13.2 below. 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' to minimise any potential environmental nuisance caused by the applied use on the surrounding areas.

- 12.6 There are two approved similar applications for open storage use (including filling of land) within the same "AGR" zone in the vicinity of the Site as mentioned in paragraph 7.1 above. Approving the current application is in line with the Committee's previous decisions.
- 12.7 Regarding the public comments raising concerns on the application as stated in paragraph 11 above, the departmental comments and planning considerations 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, PlanD considers that the applied use 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 4.10.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

#### **Approval Conditions**

- (a) 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 4.4.2025;
- (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 4.7.2025;
- (c) in relation to (b) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (d) the provision of fire extinguisher(s) with a valid fire certificate 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 15.11.2024;
- (e) 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 4.4.2025;
- (f) in relation to (e) 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 4.7.2025;

- (g) 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;
- (h) if any of the above planning condition (a), (b), (d), (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 the 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 V**.

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the applied 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, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification 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**

<b>Appendix I</b>	Application Form with attachments received on 15.4.2024
<b>Appendix Ia</b>	FI received on 7.8.2024
<b>Appendix II</b>	Relevant Extract of TPB PG-No.13G
<b>Appendix III</b>	Similar Applications
<b>Appendix IV</b>	Government Departments' General Comments
<b>Appendix V</b>	Recommended Advisory Clauses

<b>Appendices VI-1 to VI-2</b>	Public Comments
<b>Appendix VII</b>	Fire Services Department's 'Good Practice for Open Storage Sites'
<b>Drawing A-1</b>	Vehicular Access Plan
<b>Drawing A-2</b>	Layout Plan
<b>Drawing A-3</b>	Land Filling Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2024**