

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

**APPLICATION NO. A/NE-KTS/477**

<b><u>Applicant</u></b>	The Federation of Vegetable Marketing Co-operative Societies Limited
<b><u>Site</u></b>	Lot 1060 RP (Part) in D.D. 100, Tong Kung Leng, Kwu Tung South, Sheung Shui, New Territories
<b><u>Site Area</u></b>	385 m <sup>2</sup> (about)
<b><u>Lease</u></b>	Old Schedule lot held under the Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Kwu Tung South Outline Zoning Plan No. S/NE-KTS/16
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Proposed Temporary Office and Ancillary Toilet for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary office and ancillary toilet for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Kwu Tung South Outline Zoning Plan (OZP) No. S/NE-KTS/16. According to the Notes of the OZP, temporary use not exceeding a period of three years requires permission from the Town Planning Board (the Board). The Site is currently largely vacant with one container within the Site without valid planning permission. The Site is not the subject of any previous planning application.
- 1.2 The Community Grower Group Office (the Office) has been formed by the Federation of Vegetable Marketing Co-operative Societies Limited (the FVMCS), the applicant, with the support of Agriculture, Fisheries and Conservation Department (AFCD) to promote local organic agriculture. The application is for office and ancillary toilet of the office, with a total floor area is about 85.3m<sup>2</sup> in 2 structures of 2.8m and 2.4m high. There is 10 staff responsible for the daily administrative works in the office. The operation hours are from 9:00 a.m. to 5:00 p.m. from Monday to Saturday, and there is no operation on Sundays and public holidays. The Site is accessible from Fan

Kam Road via a village road and local track. There will be two private car and two light goods vehicle parking spaces in the Site. The daily vehicular trip generation is estimated to be 10. The layout plan is at **Drawing A-1**.

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

- (a) Application Form with attachments received on 9.7.2019 **(Appendix I)**
- (b) Further Information (FI) dated 26.7.2019 and 29.7.2019 **(Appendix Ia)**
- (c) FI dated 1.8.2019 **(Appendix Ib)**
- (d) FI dated 20.8.2019 **(Appendix Ic)**

## **2. Justification from the Applicant**

The justification put forth by the applicant in support of the application is detailed in **Appendix I** and are summarised as follows:

- (a) The FVMCS, under which are 26 vegetable marketing co-operative societies, was founded in 1953 under Cap. 33 Co-operative Societies Ordinance. The 26 co-operative societies are responsible for organising production and transportation of vegetables, and operating vegetable collection depots, while the FVMCS coordinates the operation of these co-operative societies and acts as the bridge between them and the Government.
- (b) AFCD has been promoting local organic farming since 2000. In 2004, the FVMCS formed the Office. The Office has been operating in Lam Tsuen, Tai Po for over 15 years. However, the land owner has requested to take back the land and the FVMCS has to find a new location for the Office.
- (c) The services to be provided by the Office includes nurturing organic seedlings, selling of agricultural pesticide, providing supporting services for organic production certifications, promoting organic farming, planting and composting etc. for the sustainable development of organic farming. And these services require handling of paper works, thus justifying the proposed office and toilet at the Site.
- (d) The area outside the Site within the subject lot will be used for farming with plant nurseries under an agricultural project funded by AFCD – Sustainable Agricultural Development Fund.
- (e) The Site is selected as there are farms in the vicinity of the Site and some are receiving services provided by the FVMCS. In addition, the Site is near AFCD's Tai Lung Experimental Station. The FVMCS will also promote local agricultural development at the future Agricultural Park in Kwu Tung South.

**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. 31) by obtaining consent from the “current land owners” on 8.7.2019. Detailed information would be deposited at the meeting for Members’ inspection.

**4. Background**

The Site is currently not subject to any active enforcement action. Should there be sufficient evidence to form an opinion of unauthorized development under the Town Planning Ordinance at the Site, enforcement action would be instigated as appropriate.

**5. Previous Application**

There is no previous application involving the Site.

**6. Similar Application**

There is no similar application in the “AGR” zone.

**7. The Site and Its Surrounding Areas (Plans A-1 and A-2, aerial photo on Plan A-3 and site photos on Plans A-4a and A-4b)**

7.1 The Site is:

- (a) largely vacant with a container at the northern part; and
- (b) accessible from Fan Kam Road via village road and local track.

7.2 The surrounding areas have the following characteristics:

- (a) surrounding the Site in three sides are mainly cultivated/ fallow agricultural land and vacant land with some scattered domestic structures;
- (b) to its west across Tam Shui Hang are mainly cultivated and fallow agricultural land with scattered domestic structures.

**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 The following Government departments have been consulted and their views are summarised as follows:

### **Land Administration**

9.1.1 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises Lot No. 1060 RP (Part) in D.D. 100. The application lot is an Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make its own arrangement, and there is no guarantee that any adjoining Government land will be allowed for the vehicular access of the proposed use;
- (b) some structures were erected in the Site without approval from his office. The aforesaid structures are not acceptable under the lease concerned. His office reserves the right to take enforcement actions against the aforesaid structures;
- (c) some Government land adjoining the Site is being occupied without approval. The applicant should remove all the structures erected on the Government land concerned at his/her own cost. His office reserves the right to take necessary land control actions against the irregularities;
- (d) the actual occupation area does not tally with the application boundary;
- (e) the applicant has submitted to his office an application for Letter of Approval (“LoA”) in respect of the application lot for the purpose of erection of some temporary structures for agricultural use, which is under processing and not yet approved;
- (f) any proposed septic tank and soakage pit system should meet the current health requirements and the applicant should apply for certificates for building works and drainage works from his office before erection; and
- (g) if the planning application is approved, the owner(s) of the lots concerned shall apply to his office for a Short Term Waiver (STW) and Short Term Tenancy (STT) covering all the actual occupation area. The applications for STW and STT will be considered by the Government in its landlord’s capacity and there is no guarantee that they will be approved. If the

STW/STT are approved, their commencement date would be backdated to the first date of occupation and they will be subject to such terms and conditions to be imposed including payment of waiver fee/rent and administrative fees as considered appropriate by his office. If the certificates for building works and drainage works are approved, they may be subject to such conditions that his office deems appropriate.

### **Traffic**

#### 9.1.2 Comments of the Commissioner for Transport (C for T):

- (a) has no objection from traffic viewpoint;
- (b) the applicant is advised to consider to arrange their trips outside the AM/PM peak period; and
- (c) the local track leading to the Site is not managed by his Department. The land status, management and maintenance responsibilities of the local track should be clarified with the relevant lands and maintenance authorities accordingly.

### **Environment**

#### 9.1.3 Comments of the Director of Environmental Protection (DEP):

- (a) the applicant is advised to follow the environmental mitigation measures as recommended in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimise the potential environmental impacts on the adjacent area;
- (b) he has no adverse comment on the applicant’s proposal from water quality perspective to regularly tanker-away the sewage generated from the proposed toilet;
- (c) there is no environmental complaint case related to the Site in the past 3 years; and
- (d) his other advisory comments are at **Appendix III**.

#### 9.1.4 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, DSD):

The Site is within an area where no public sewerage connection is available.

### **Landscape**

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) according to the aerial photo taken in 2017, the surrounding area is comprised of agriculture lands, pond, scattered tree groups and temporary structures. Given that the proposed use is small in scale and the proposed development is for agricultural use, the proposed use is considered not incompatible with the existing landscape setting in proximity;
- (b) based on site visit conducted on 29.7.2019, the Site was a vacant land covered with self-seeded groundcovers, no existing tree was found within the Site. As there is no significant landscape resource within the Site, further significant landscape impact arising from the proposed use is not anticipated. Therefore, he has no objection to the application from the landscape planning perspective; and
- (c) in view that there are existing trees along the western boundary outside the Site, which act as landscape buffer to the adjacent road, it is opined that the landscape condition in the planning permission is not recommended, should the application be approved by the Board.

### **Drainage**

9.1.6 Comments of the CE/MN, DSD:

- (a) he has no objection to the application from the public drainage viewpoint; and
- (b) should the application be approved, conditions should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area.

### **Building Matters**

9.1.7 Comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD):

- (a) there is no record of submission of the proposed building/structure to the Building Authority for approval;
- (b) the proposed temporary structures are subject to the control of Part VII of the Building (Planning) Regulations and require prior approval and consent under the Buildings Ordinance (BO); and

- (c) his detailed advisory comments are at **Appendix III**.

### **Agriculture and Nature Conservation**

#### 9.1.8 Comments of the Director of Agriculture, Fisheries and Conservation (DAFC):

- (a) the FVMCS is a major farmer organisation in Hong Kong providing a wide range of services to the local farmers and the farming community. The organisation has sought funding from the Sustainable Agricultural Development Fund administered by his Department for providing farmers with support in organic farming as well as quality organic seedlings and seeds, other than marketing and related services commencing from 1 April 2019 for a period of three years. Other than a plant nursery, which is to the east of the Site, the FVMCS will also set up an office in the Site in order to provide the various kinds of agricultural services to the farming community. There is an operational need to set up the office and the toilet as proposed. In the above circumstances, the application for erection of the office and the toilet has the support of his Department from agricultural point of view; and
- (b) a number of young trees of common native species are present at the Site. While AFCD has no adverse comment on the application, the Government land along the road at the north and south of the Site are mitigation woodlands maintained by his Department for ecological compensation under the Main Drainage Channel for Fanling, Sheung Shui and Hinterland project. Should the application be approved, the applicant should be reminded to implement good site practice so as not to disturb the mitigation woodland and pollute the watercourse nearby.

### **Fire Safety**

#### 9.1.9 Comments of the Director of Fire Services (D of FS):

- (a) he has no objection in principle to the application subject to fire service installations being provided to the satisfaction of D of FS; and
- (b) if the structure(s) is required to comply with the BO, detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans; and
- (c) his advisory comments are at **Appendix III**.

### **Water Supply**

9.1.10 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable Government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

### **District Officer's Comments**

9.1.11 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

he has consulted the locals from 18.7.2019 to 1.8.2019. The North District Council (NDC) member of the subject Constituency and the Resident Representative (RR) of Tong Kung Leng objected to the proposal due to inadequate information on sewerage treatment, damage to road and adverse traffic impacts. The Chairman of Sheung Shui District Rural Committee and the Indigenous Inhabitant Representative (IIR) of Tong Kung Leng had no comments on the proposal.

9.2 The following Government department(s) have no comment on the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Commissioner of Police (C of P);
- (c) Project Manager (North), Civil Engineering and Development Department (PM(N), CEDD); and
- (d) Head of Geotechnical Engineering Office, CEDD (H, GEO, CEDD).

## **10. Public Comments**

On 16.7.2019, the application was published for public inspection. During the first three weeks of the statutory public inspection period, three public comments (**Appendices IIa to IIc**) submitted by Designing Hong Kong Limited and two individuals were received. One individual indicates no comment. The other two commenters object to the application mainly on grounds that the proposed development is not in line with the planning intention of "AGR" zone; the proposed development may cause adverse environmental and sewerage impacts; and approval of the application would set an undesirable precedent; the application legitimise existing brownfield use; the office use should be placed in the "Village Type Development"



(“V”) zone; and the Site should be used for cultivation.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary office and ancillary toilet operated by the applicant, the FVMCS, with a total floor area of 85.3 m<sup>2</sup> at the Site for a period of 3 years. The Site falls within an area zoned “AGR” on the approved Kwu Tung South OZP No. S/NE-KTS/16 (**Plan A-1**) which is intended primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. AFCD has advised that the applicant is a major farmer organisation providing a wide range of services to the local farmers and the farming community. It has sought funding from the Sustainable Agricultural Development Fund administered by AFCD for providing farmers with support in organic farming as well as quality organic seedlings and seeds, and related services commencing from 1 April 2019 for a period of three years. The applicant intends to set up an office in the Site and a farm to the east of the Site. AFCD considers that there is an operational need to set up the office and the toilet as proposed, and supports the application. In this connection, the proposed use is considered as supporting the planning intention of the “AGR” zone.
- 11.2 The proposed development includes two single-storey structures. Given its small scale, it is considered not incompatible with the surrounding environment, which are predominantly cultivated and fallow agricultural land intermixed with some domestic structures (**Plan A-2**). C for T, DEP, CE/MN, DSD, D of FS and CTP/UD&L, PlanD have no adverse comment on or no objection to the application. There is no environmental complaint received in the past 3 years. Significant adverse traffic, environmental, drainage, fire safety and landscape impact are not anticipated. Approval conditions and advisory clauses as suggested by concerned departments are set out in paragraph 12.2 and **Appendix III** respectively.
- 11.3 The Site does not involve any previous application and there is no similar application in the “AGR” zone.
- 11.4 There are four local views conveyed by DO(N) and three public comments received (as stated in paragraphs 9.1.11 and 10), of which four object to the application mainly on grounds of being not in line with the planning intention of “AGR” zone, adverse environmental and sewerage impact, setting of undesirable precedent. Relevant Government departments’ comments and planning considerations set out in paragraphs 11.1 and 11.2 above are relevant.

## **12. Planning Department’s Views**

- 12.1 Based on the assessment made in paragraph 11 and having taken into account the local views and public comments mentioned in paragraphs 9.1.11 and 10, the Planning Department considers that the temporary office and ancillary toilet 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 3 year until 6.9.2022. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) the submission of proposal for fire service installations 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 **6.3.2020**;
- (b) in relation to (a) above, the implementation of proposal for fire service installations 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 **6.6.2020**;
- (c) the submission of 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 **6.3.2020**;
- (d) in relation to (c) above, the implementation of 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 **6.6.2020**;
- (e) if any of the above planning conditions (a), (b), (c) or (d) 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
- (f) 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 attached at **Appendix III**.

- 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 in the Kwu Tung South area which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. There is no strong planning justification 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**

<b>Appendix I</b>	Application Form with attachments received on 9.7.2019
<b>Appendix Ia</b>	FI dated 26.7.2019 and 29.7.2019
<b>Appendix Ib</b>	FI dated 1.8.2019
<b>Appendix Ic</b>	FI dated 20.8.2019
<b>Appendices IIa to IIc</b>	Public Comments
<b>Appendix III</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout 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-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2019**