

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-MTL/3

- Applicant** : North District Parent Association (北區家長協會)
- Site** : Lots 861 (Part), 869 RP (Part), 870 (Part), 871 (Part) and 872 (Part) in D.D. 96, Ma Tso Lung, Kwu Tung North, New Territories
- Site Area** : About 1,378 m²
- Land Status** : Block Government Lease (demised for agricultural use)
- Plans** : (i) Approved Ma Tso Lung and Hoo Hok Wai Outline Zoning Plan (OZP) No. S/NE-MTL/3
(ii) Approved Kwu Tung North OZP No. S/KTN/2
- Zonings** : (i) “Agriculture” (“AGR”) (about 94% of the Site)
(ii) “Other Specified Uses” annotated “Research and Development” (“OU(R&D)”) (about 6% of the Site)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture with Ancillary Site Office and Car Park for a Period of 3 Years and Land Filling

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary place of recreation, sports or culture with ancillary site office and car park for a period of three years and land filling at the application site (the Site) (**Plan A-1**). About 94% of the Site falls within the “AGR” zone on the approved Ma Tso Lung and Hoo Hok Wai (MTL) OZP with a very minor portion encroaching onto the adjoining “OU(R&D)” zone on the approved Kwu Tung North (KTN) OZP. While the proposed use is always permitted in “OU(R&D)” zone under KTN OZP, such temporary use not exceeding a period of three years in “AGR” zone under MTL OZP requires planning permission from the Board.
- 1.2 According to the applicant, the proposed development will involve two 2-storey temporary converted container structures (about 6 m in height) with a total floor area of about 435 m² for site office, meeting rooms, recreation & activity rooms, store room, toilet and utility room etc. (**Drawing A-1 to A-3**). The Site has been largely paved with asphalt while a minor portion of the Site (i.e. about 300 m²) will be formed with concrete by about 0.5 m in thickness for two temporary structures at the northern part of the Site (**Drawings A-1 and A-4**). The operation hours are 6:00 a.m. to 6:00 p.m. Mondays to Saturdays, excluding Sundays and public holidays. The Site is accessible from Ma Tso Lung Road via a local road (**Plan A-1**). A total of 15 private car parking spaces

(measuring 5 m x 2.5 m each) are proposed at the southeastern portion of the Site (**Drawing A-1**). The proposed layout plan, floor plans and extent of land filling submitted by the applicant are at **Drawings A-1 to A-4**. The Site is currently largely vacant.

- 1.3 In support of the application, the applicant has submitted the Application Form with attachments received on 7.12.2020 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Part 7 of the Application Form and supplementary information at **Appendix I**. They can be summarized as follows:

- (a) the “North District Parent Association” has been registered under the Societies Ordinance (Cap. 151) since 29.9.2017 by a group of parents as volunteers serving the community and people in need (**Appendix I**). The main purposes of the association are to safeguard women’s rights, boost their confidence and develop positive energy for more harmonious families. It aims to serve the community and people in need by regularly organizing visits to residential care homes for the elderly (RCHEs) and various interest classes/ activities/ workshops in association with Social Welfare Department (SWD) in the community and villages;
- (b) as there is a lack of activity and parking spaces in the villages of the North District, the Site is an ideal place for organizing more activities as well as providing storage space for necessary materials; and
- (c) the applicant would also take the opportunity to promote farming/cultivation at the Site by giving presentations and organizing relevant workshops. Guided tour introducing the history of Ma Tso Lung village are also proposed.

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. 31A) by obtaining consent from one land owner and give notification to the other concerned land owner. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

According to the Chief Town Planner/Central Enforcement and Prosecution of Planning Department, the Site forms part of the subject of an active enforcement case (No. E/NE-MTL/9) (**Plan A-2b**) against an unauthorized development (UD) involving storage use (including deposit of containers) and parking of vehicles. Enforcement Notice (EN) was issued on 29.9.2020 to the concerned land owners requiring discontinuance of the UD by 29.12.2020. Site inspection on 30.12.2020 revealed that the UD was partially discontinued upon EN expiry. The case will be monitored according to the established procedures.

5. Previous Application

There is no previous application for the Site.

6. Similar Application

There is no similar application for temporary place of recreation, sports or culture or filling of land within the “AGR’ zone in the Ma Tso Lung area.

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

7.1 The Site is:

- (a) flat, hard paved, largely vacant and partly fenced off; and
- (b) accessible from Ma Tso Lung Road via a local road (**Plan A-1**).

7.2 The surrounding areas have the following characteristics:

- (a) to the north and northwest are some agricultural/ unused/ vacant land and domestic structures; and
- (b) to the west, southwest, south and southeast are areas zoned “Other Specified Uses” annotated “Research and Development” (“OU(R&D)”) and “Government, Institution or Community” (“G/IC”) under KTN OZP (**Plan A-2a**) comprising domestic structures, a vacant school, some open storage uses, active/fallow agricultural land and unused 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 The following Government departments have been consulted and their views on the application are summarized as follows:

Land Administration

9.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) with restriction that no structures are allowed to be erected without prior approval of the Government; and

- (b) should the planning application be approved, the owner(s) of the lot concerned shall apply to his office for a Short Term Waiver (STW) to cover all the proposed structures on Site. Given the application is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. If the STW is approved, the commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of rent or waiver fee and administrative fees as considered appropriate by his office.

Traffic

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

- (a) unless the applicant could satisfactorily address his following comments, he cannot render support to the application from the traffic engineering viewpoint;
 - (i) the applicant shall justify the adequacy of the parking spaces and loading/unloading spaces so provided by relating to the number of vehicles visiting the Site;
 - (ii) the applicant should advise the width of the vehicular access and it should be no less than 7.3 m wide;
 - (iii) the applicant shall demonstrate the satisfactory manoeuvring of vehicles entering to and exiting from the Site, manoeuvring within the Site and into/out of the parking and loading/unloading spaces, preferably using the swept path analysis;
 - (iv) the applicant shall advise the management/control measures to be implemented to ensure no queuing of vehicles outside the Site; and
 - (v) the applicant shall advise the provision and management of pedestrian facilities to ensure pedestrian safety; and
- (b) the vehicular access between the Site and Ma Tso Lung Road (**Plan A-1**) is not managed by TD. The applicant should seek comment from the responsible party.

Project Interface

9.1.3 Comments of the Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(N), CEDD):

- according to the latest implementation programme, the construction works for the remaining phase of Kwu Tung North New Development Area (KTN NDA) will commence in 2024. The applicant should be advised that the portion of Site falling within "OU(R&D)" zone on the KTN OZP (**Plan A-**

2a) might be subject to land resumption/clearance at any time before expiry of the planning permission.

Agriculture

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

- (a) he does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation; and
- (b) the Site falls mostly within “AGR” zone and is currently a piece of vacant land. Although agricultural activities are not active in the vicinity, agricultural infrastructures such as road access are available. The Site possesses potential for agricultural activities such as greenhouses, plant nurseries, etc.

Landscape Aspect

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

- (a) she has reservation on the application from the landscape planning perspective;
- (b) based on aerial photo of April 2020 (**Plan A-3**), the Site is situated in an area of rural fringe landscape character surrounded by dense tree groups to the north, east and south of the Site, and some temporary structures are located to the west and further northwest of the Site. The proposed temporary place of recreation, sports or culture with ancillary site office, open storage and car park is considered not entirely compatible with the surrounding environment;
- (c) with reference to the aerial photo of April 2020 (**Plan A-3**) and latest site photo (**Plan A-4**), it is observed that the northwestern and southeastern portions of the Site are covered by vegetation or trees and a temporary structure is located at the middle of the Site. However, according to recent site inspection in January 2021, the Site had been formed and hard paved with vegetation removed. Adverse landscape impact has taken place. Furthermore, there is concern that the proposed land filling by concrete and asphalt, if approved, would encourage more similar land filling and the cumulative impact of such approval would further alter the surrounding landscape character within the “AGR” zone; and
- (d) since the Site is surrounded by existing vegetation buffer and there is no major public frontage along the site boundary, should the application be approved, it is considered not necessary to impose a landscape condition as the effect of additional landscaping on enhancing the quality of public realm is not apparent.

Environment

9.1.6 Comments of the Director of Environmental Protection (DEP):

- (a) as the application is temporary in nature, he has no in-principle objection to the application;
- (b) wastewater generated from the toilet or other processes within the premises might be discharged into the nearby waterbodies and cause serious water quality impact if it is not properly treated and disposed of;
- (c) should the application be approved, the applicant should be advised to strictly follow the provisions in the EPD's latest "Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)" that proper on-site sewage treatment and disposal facilities should be provided;
- (d) there is no existing nor planned sewer available for connection in vicinity of the Site. Hence, in case Septic tank and soakaway (STS) system is provided, the design and construction of STS system should meet all relevant requirements in ProPECC PN 5/93, in particular the percolation test and the minimum distance requirements, which should be duly certified by an Authorized Person (AP);
- (e) in view of the potential impact on the watercourse located about 20 m to the north of the Site (**Plan A-2a**), an approval condition on the submission and implementation of the design of septic tank and soakaway system and/or other wastewater treatment facilities for the temporary toilet facilities is recommended; and
- (f) the applicant is also reminded of his obligation to strictly comply with all environmental protection/ pollution control ordinances, in particular Water Pollution Control Ordinance and Waste Disposal Ordinance, and to follow relevant measures given in the EPD's latest CoP, during construction and operation stages of the proposal.

Drainage

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

- (a) he has no objection to the application from the public drainage point of view;
- (b) should the application be approved, a condition 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; and
- (c) the Site is in an area where no public sewerage connection is available.

Water Supply

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

- (a) he has no objection to the application; and
- (b) existing water mains will be affected (**Plan A-2b**). A waterworks reserve with 1.5 m from the centerline of the water main should be provided to WSD. No structures shall be erected over this waterworks reserve and such area shall not be used for storage purposes. His other advisory clauses are at **Appendix III**.

Fire Safety

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

- (a) he has no in-principle objection to the application subject to fire service installations (FSIs) and water supplies for firefighting be provided to the satisfaction of his department;
- (b) in consideration of the design/ nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is required to submit the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicant should note the following points:
 - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
 - (ii) the location of the proposed FSIs and the access for emergency vehicles should be clearly marked on the layout plans; and
- (c) the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) he has no objection to the application; and
- (b) for any proposed new buildings, his advisory comments are at **Appendix III**.

Social Welfare

9.1.11 Comments of the Director of Social Welfare (D of SW):

- (a) noting that there is no concrete service proposal in the submission, he is unable to comment on the proposal from the welfare perspective;
- (b) the applicant should provide further information on the proposed service, such as the service scope, target group of the service, mode of operation, manpower arrangement, expected outcome, financial arrangement, sustainability of the service, etc, to facilitate his further assessment on the support-worthiness of the proposal; and
- (c) according to his record, no policy support has been recommended by his office before.

District Officer's Comments

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

- he has consulted the locals regarding the application. No comment has been received.

9.2 The following Government departments have no comment on / no objection to the application:

- (a) Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Director of Leisure and Cultural Services Department (DLCS); and
- (e) Division Commander (Lok Ma Chau), Hong Kong Police Force (DVC LMCDIV, HKPF).

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

On 15.12.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, six public comments were received. A North District Council (NDC) member has no comment on the application. The remaining five public comments from WWF-HK, Kadoorie Farm and Botanic Garden, The Hong Kong Bird Watching Society, Designing Hong Kong Limited and an individual object to the application mainly on the grounds that the proposed development is not in line with the planning intention of "AGR" zone; it is a "destroy first, develop later" case; the Site is subject to active planning enforcement action; the proposed land filling would have irreversible damage to the environment; and setting of undesirable precedent for other applications leading to a general degradation of the rural environment and landscape of the area.

11. Planning Considerations and Assessments

- 11.1 The application is for a proposed temporary place of recreation, sports or culture with ancillary site office and car park for a period of three years and land filling primarily on land zoned “AGR” on the MTL OZP (**Plan A-1**). The proposed development 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 from agricultural point of view as the Site possesses potential for agricultural rehabilitation. In this regard, there is no strong planning justifications in the submission to merit a departure from the planning intention of the “AGR” zone, even on a temporary basis.
- 11.2 The Site is situated in an area of rural landscape character surrounded by dense tree groups to the north, east and south of the Site, and some temporary structures are located to the west and further northwest of the Site. The proposed development is considered not entirely compatible with the surrounding environment. The Site had been formed and hard paved with vegetation removed (**Plans A-3 and A-4**). CTP/UD&L, PlanD has reservation on the application from landscape planning point of view as the land filling by concrete and asphalt would encourage more similar land filling developments in the area. The cumulative impact of such approval would further alter the surrounding landscape character in the “AGR” zone.
- 11.3 C for T does not support the application as the applicant has not provided information on the estimated traffic flow, justifications for the proposed parking/ loading and unloading spaces, relevant satisfactory management/ control measures, traffic arrangement and vehicle manoeuvring within the Site and provision and management of pedestrian facilities. In this regard, the applicant has failed to demonstrate in the submission that there is no adverse traffic impact arising from the proposed development. DEP has no in-principle objection to the application as the proposed development is temporary in nature. The applicant should follow the latest “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites (CoP)” and strictly comply with all environmental protection/ pollution control ordinances to prevent polluting nearby watercourse during construction and operation of the proposed development. Other relevant Government departments consulted including CHE/NTE of HyD, H(GEO) of CEDD, D of FS and CE/C of WSD have no adverse comment on or no objection to the application
- 11.4 While the applicant claims that the activities and workshops previously held are in association with SWD, D of SW advises that there is no concrete service proposal in the submission and he is unable to comment on the application from the welfare perspective. There is insufficient information in the submission regarding the proposed service such as the service scope, target group of the service, mode of operation, manpower arrangement, expected outcome, financial arrangement, sustainability of the service, etc. No policy support has been recommended for the proposed development.
- 11.5 Regarding the adverse public comments as mentioned in paragraph and 10 above, the Government department’s comments and the 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 above, the Planning Department does not support the application for the following reasons:

- (a) the proposed development 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 in the submission for a departure from such planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate in the submission that the proposed development would not cause adverse traffic and landscape impacts on the surrounding areas.

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 3 years until 5.2.2024. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 6:00 p.m. and 6:00 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) the provision of boundary fencing on the Site within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 5.8.2021;
- (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 5.8.2021;
- (e) in relation to (d) above, the provision of drainage facilities 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 5.11.2021;
- (f) the submission of the design of septic tank and soakaway system and/or other wastewater treatment facilities within 6 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 5.8.2021;
- (g) in relation to (f) above, the provision of septic tank and soakaway system and/or other wastewater treatment facilities within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 5.11.2021;

- (h) the submission of proposals for fire service installations and water supplies for fire-fighting 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 5.8.2021;
- (i) in relation to (h) above, the implementation of proposals for fire service installations and water supplies for fire-fighting 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 5.11.2021;
- (j) the submission of traffic impact assessment within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 5.8.2021;
- (k) in relation to (j) above, the implementation of traffic management measures identified therein within 9 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 5.11.2021;
- (l) if any of the above planning conditions (a) or (b) 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;
- (m) if any of the above planning conditions (c), (d), (e), (f), (g), (h), (i), (j) or (k) 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
- (n) upon the expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix III**.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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
Appendix II

Application Form with attachments received on 7.12.2020
Public Comments

Appendix III	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawings A-2 to A-3	Floor Plan
Drawing A-4	Extent of Land Filling
Plan A-1	Location Plan
Plans A-2a to A-2b	Site Plans
Plan A-3	Aerial Photo
Plan A-4	Site Photo

**PLANNING DEPARTMENT
FEBRUARY 2021**