

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

**APPLICATION NO. A/NE-TKL/564**

<b><u>Applicant</u></b>	Mr. WU Kuen represented by Fotton ELA Architects Limited
<b><u>Site</u></b>	Lots 965 RP (Part) and 966 RP in D.D.82, Ping Che Road, Ping Che, North District, New Territories
<b><u>Site Area</u></b>	About 1,636 m <sup>2</sup>
<b><u>Lease</u></b>	Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<b><u>Zoning</u></b>	“Agriculture” (“AGR”)
<b><u>Application</u></b>	Temporary Open Storage of Waste Paper, Waste Plastics and Waste Metal Cans for Recycling and Workshop for Recycling for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission for temporary open storage of waste paper, waste plastics and waste metal cans for recycling and workshop for recycling for a period of three years at the application site (the Site) (**Plan A-1**). The Site is zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the 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 Town Planning Board (the Board) notwithstanding that the use is not provided for under the Notes of the OZP. The Site is currently used by the applied use without a valid planning permission.
- 1.2 According to the applicant, there are six structures, including a canopy for temporary storage and workshop uses (Item 6 as shown on **Drawing A-1**); two converted-containers under the canopy for office and storage uses (Items 1 and 2); an unused canopy (Item 5); a fire pump room (Item 3); and an electricity meter room (Item 4). The total floor area of the development is about 852 m<sup>2</sup>, with the height ranging from 2.3m to 5m (one to two storeys). One medium goods vehicle parking space (11 m (L) x 3.5 m (W)) and one private car parking space (5m (L) x 2.5m (W)), and one loading/unloading bay for medium goods vehicle are provided within the Site. The Site is accessible from Ping Che Road (**Plan A-2**). The number of vehicular trips to/from the Site will be less than 6 daily during the non-peak hours (i.e. 10:00 a.m. to 4:00 p.m.).

The operation hours of the Site are between 8:00 a.m. and 6:30 p.m. Monday to Saturdays, and no operation on Sundays and public holidays. A layout plan with development parameters of the applied use, landscape and drainage proposals submitted by the applicant are shown on **Drawings A-1 to A-3** respectively.

- 1.3 The Site, in part or in whole, is involved in eight previous applications (No. A/DPA/NE-TKL/7, and No. A/NE-TKL/20, 157, 219, 241, 295, 334 and 460) with the last six applications approved for proposed temporary open storage of building materials/construction materials for a period of three years. Details of these previous applications are set out in paragraph 6 below. Compared with the last application (No. A/NE-TKL/460), the current application is submitted by the same applicant for different type of open storage use on a slightly larger site area (increase from about 1,609 m<sup>2</sup> to 1,636 m<sup>2</sup>) with different layout, increase in no. of private car parking space (from 0 to 1) and the total floor area (from 398.44 m<sup>2</sup> to 852.08 m<sup>2</sup>). The planning permission under application No. A/NE-TKL/460 was revoked on 13.6.2015 due to the non-compliance with an approval condition related to implementation of tree preservation and landscape proposals.
- 1.4 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with Attachments received on 26.4.2017 (**Appendix I**)
  - (b) Letter dated 8.6.2017 requesting for deferment of consideration of the application (**Appendix Ia**)
  - (c) Further Information received on 3.7.2017 (**Appendix Ib**)
  - (d) Letter dated 5.9.2017 requesting for deferment of consideration of the application (**Appendix Ic**)
  - (e) Further Information received on 2.11.2017 (**Appendix Id**)
  - (f) Letters dated 4.12.2017 and 21.2.2018 requesting for deferment of consideration of the application (**Appendix Ie**)
  - (g) Further Information received on 17.4.2018 (**Appendix If**)
- 1.5 At the request of the applicant (**Appendices Ia, Ic and Ie**), the Committee of the Board agreed four times to defer making a decision on the application for two months each pending the preparation of further information to address the departmental comments. The applicant submitted the further information on 7.3.2018 which was subsequently withdrawn by the applicant and replaced by the further information submitted on 17.4.2018. The application is re-scheduled for consideration by the Committee on 4.5.2018.

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the part 9 of the Application Form and further information at **Appendices I, Ib, Id and If** respectively. They can be summarized as follows:

- (a) the Site is the subject of previous planning approvals for similar temporary open storage uses;
- (b) the development under application would not generate adverse drainage impact on the surrounding areas as the surface runoff within the storage area and waste water would be collected and stored in the waste water tank;

- (c) the Site is used for temporary storage of recyclable materials which is considered as an environmental-friendly industry and should be supported from the environmental protection point of view; and
- (d) the existing daily trip generation by the development under application is less than 6 vehicles per day during the non-peak hours. The applicant undertakes that all vehicles entering and exiting the Site will be restricted at non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m.) and traffic controllers will be assigned to ensure the safety of pedestrian when the vehicles entering and exiting the Site (**Appendix If**).

### **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**

According to the Chief Town Planner/Central Enforcement and Prosecution, Planning Department (CTP/CEP, PlanD), the Site is involved in an enforcement case. An Enforcement Notice (EN) against storage use and workshop use was issued to the concerned land owner on 7.6.2017. Upon expiry of the EN on 7.8.2017, subsequent site inspection revealed that the unauthorized development has not been discontinued. The land owner would be subject to prosecution action under the Town Planning Ordinance.

### **5. Town Planning Board Guidelines**

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.13E) is relevant to the application. The Site falls within Category 2 area under TPB PG-No. 13E promulgated on 17.10.2008. Relevant extract of the Guidelines is attached in **Appendix II**.

### **6. Previous Applications**

- 6.1 The Site, in part or in whole, is involved in eight previous applications (No. A/DPA/NE-TKL/7, and No. A/NE-TKL/20, 157, 219, 241, 295, 334 and 460). Application No. A/DPA/NE-TKL/7 for metal and plastic factory and application No. A/NE-TKL/20 for temporary plastic workshop for a period of 12 months were rejected by the Committee or by the Board on review on 1.11.1991 and 11.10.1996 respectively on similar grounds that the proposed uses were not in line with the planning intention of “AGR” zone and could be accommodated in flatted factories; the proposed uses would cause adverse drainage impact and noise pollution, and no mitigation measures, sewage treatment and disposal facilities, vehicular access and parking spaces were proposed; the proposed use was not compatible with the surrounding land uses; and the approval of the application would set an undesirable precedent for other similar applications.
- 6.2 Application No. A/NE-TKL/157 for proposed temporary open storage of building materials for a period of three years was approved with conditions by the Board on review on 22.6.2001 for the reasons that part of the application site would be resumed for

proposed Ping Che Road widening scheduled for 2004; the proposed development could be tolerated for a temporary period of three years and a similar application in the vicinity was approved by the Board. The application was revoked on 22.3.2002 due to non-compliance with approval conditions.

- 6.3 Applications No. A/NE-TKL/219, 241, 295 and 334 for the temporary open storage of building materials for a period of three years/renewal of planning approval for temporary open storage of building materials for a period of three years were approved with conditions by the Committee between October 2002 and March 2010 for the reasons that the application site fell within the “tolerated” area in the broad strategy for considering applications for temporary open storage and port back-up uses; the application complied with TPB PG-No.13E and ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use of Development’ (TPB PG-No.34A); the applications were the subject of previous approvals and there were no adverse comments from the concerned Government departments; and the granting of a temporary approval for three years would not frustrate the future Ping Che/Ta Kwu Ling New Development Area development. The application No. A/NE-TKL/219 was revoked on 11.4.2003 due to the non-compliance with approval condition.
- 6.4 The last application No. A/NE-TKL/460 for temporary open storage of construction materials was approved with conditions by the Committee on 13.12.2013 for the reasons that the application complied with TPB PG-No.13E in that there were previous approvals for similar use on the application site and no major adverse departmental comments had been received; approval of the application on a temporary basis would not frustrate the long-term planning and future development of the area; and the development was not expected to have significant adverse traffic, drainage and landscape impacts on the surrounding areas. Compared with the last application (No. A/NE-TKL/460), the current application is submitted by the same applicant for different type of open storage use on a slightly larger site area (increase from about 1,609 m<sup>2</sup> to 1,636 m<sup>2</sup>) with different layout, increase in no. of private car parking space (from 0 to 1) and the total floor area (from 398.44 m<sup>2</sup> to 852.08 m<sup>2</sup>). The approval of application No. A/NE-TKL/460 was revoked on 13.6.2015 due to the non-compliance with an approval condition related to implementation of tree preservation and landscape proposals.
- 6.5 Details of the previous applications are summarized at **Appendix III** and their locations are shown on **Plan A-1**.

## **7. Similar Applications**

- 7.1 There are 23 similar applications within or partly within the “AGR” zones in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.
- 7.2 Ten similar applications (No. A/NE-TKL/307, 315, 318, 342, 390, 443, 454, 553, 555 and 567) involving five sites (two sites are in Category 2 areas under TPB PG-No. 13E and two sites are largely zoned “Industrial (Group D)” on the OZP) for temporary open storage of construction equipment/materials/machinery and proposed temporary curtain wall testing centre, ancillary office and open storage of materials were approved with conditions by the Committee or by the Board on review between August 2008 and November 2017 mainly on the considerations that the proposed developments generally complied with the relevant Town Planning Board Guidelines; there were similar applications approved in the vicinity; and there were no major adverse departmental

comments and local objections.

- 7.3 The other 13 similar applications (No. A/NE-TKL/304, 306, 308, 317, 330, 332, 338, 346, 354, 480, 514, 560 and 574) involving 10 sites for temporary open storage uses of packaged used computer parts/metal goods and equipment/construction materials, equipment or machinery/recycled electronic appliances/semi-products, and vehicle repair workshop were rejected by the Committee or by the Board on review between March 2008 and October 2017 mainly on considerations that the proposed developments were not in line with the planning intention of “AGR” zone; the developments did not comply with the relevant Town Planning Board Guidelines; there were adverse departmental comments / local objections; the applicants failed to demonstrate that developments would not generate adverse impacts on the surrounding areas; and the setting of undesirable precedents for similar applications.
- 7.4 Details of these similar applications are at **Appendix IV** 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) mainly flat and formed, and fenced off;
- (b) occupied by structures for the applied use without valid planning permission; and
- (c) abutting Ping Che Road.

8.2 The surrounding areas have the following characteristics:

- (a) situated in a rural landscape character area dominated by active/fallow farmland, open storage use, unused/vacant land and village houses/temporary structure for domestic purpose;
- (b) to the north is an open storage yard of containers and some fallow farmland, further northeast across Ping Che Road is village houses of Tong Fong;
- (c) to the immediately southeast is parking of vehicles; and to the east across Ping Che road is vacant land, fallow farmland and a temporary structure for domestic purpose; and
- (d) to the west is Ping Yuen River, active/fallow farmland, a plant nursery and vacant land.

## **9. Planning Intention**

The planning intention of the “AGR” zone in Ping Che and Ta Kwu Ling area is to primarily 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.

## 10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### Land Administration

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

- (a) the lots under application are Old Schedule Lots held under Block Government Lease (demised for agricultural use) without any guaranteed right of vehicular access;
- (b) unauthorised structures are found within the Site without prior approval of his office. The aforesaid structures are not acceptable under the Leases concerned. His office is taking lease enforcement action against the unauthorized structures; and
- (c) if the planning approval is granted, the owner of the lots concerned have to apply to his office for a Short Term Waiver (STW). The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that it will be approved. In addition, the application for STW will be processed by his office without prejudice to the aforesaid leases enforcement action. If the STW is approved, its commencement date will be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fees as considered appropriate by his office.

### Traffic

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

based on the further information submitted (**Appendices I, Id and If**), he has no further comment on the application from the traffic engineering point of view subject to the condition that all vehicles entering and exiting the Site will be restricted at non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m.).

### Environment

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

- (a) she does not support the application as there are domestic structures in the vicinity of the Site, the closest one is located to the southeast of the Site at a distance of about 60m (**Plan A-2**); and
- (b) there was one substantiated environmental complaint on noise aspect against the Site in 2017 during the past three years.

### **Landscape Aspect**

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

- (a) she has no objection to the application from the landscape planning perspective;
- (b) the existing trees are found along the northern, eastern and southern boundary, significant adverse landscape impact arising from the development is not anticipated; and
- (c) should the application be approved, an approval condition on the submission and implementation of the tree preservation and landscape proposal is recommended.

### **Drainage**

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

- (a) he has no objection in-principle to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit drainage condition record for the Site to ensure that the applied use will not cause adverse impact to the adjacent area. If the existing drainage system is found to be inadequate or ineffective during operation, the applicant is required to rectify the system at his own cost; and
- (c) the Site is in an area where no public sewerage connection is available.

10.1.6 Comments of the Chief Engineer/Drainage Projects, Drainage Services Department (CE/DP, DSD):

- (a) part of the Site falls within the project limit of “PWP Item 119CD – Drainage Improvement in Northern New Territories – Package C (Remaining Works)” (**Plan A-2**). The programme of the project is currently under review; and
- (b) on the understanding that the planning permission, if approved, will last for three years only, he has no objection to the application from drainage projects viewpoint.

### **Building Matters**

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

- (a) there is no record of approval of the Building Authority (BA) for the buildings/structures existing at the Site and BD is not in a position to offer

comments on their suitability for the use related to the application;

- (b) if the existing structures are erected on leased land without approval of the BD, they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
- (c) before any new building works are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are Unauthorised Building Works (UBW). An Authorised Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
- (d) for UBW erected on leased land, enforcement action may be taken by the BA to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO;
- (e) the temporary converted containers for site office/ storage are considered as temporary buildings are subject to control under the Building (Planning) Regulations (B(P)Rs) Pt. VII;
- (f) the Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of B(P)Rs respectively;
- (g) if the Site is not abutting on a specified street having a width not less than 4.5m, the development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage; and
- (h) formal submission under the BO is required for any proposed new works, including any temporary structures. Detailed comments under BO will be provided at building plan submission stage.

### **Fire Safety**

#### 10.1.8 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 being provided to the satisfaction of his department;
- (b) having considered the nature of the open storage use, an approval condition on provision of fire extinguisher(s) within 6 weeks from the date of planning approval is recommended for inclusion in the planning permission. To address this condition, the applicant should submit certificate(s) under Regulation 9(1) of the Fire Service (Installations and Equipment) Regulations (Chapter 95B) to his department for compliance of condition;
- (c) if covered structures (e.g. container-converted office, temporary warehouse and temporary shed used as workshop) are erected within the Site, FSIs will need to be installed;



- (d) in such circumstances, except where building plan will be circulated to his department via the Centralized Processing System of BD, the applicant is required to send the relevant layout plans to his department incorporated with the proposed FSIs for approval. In preparing the submission, the applicant is advised on the following points:
  - (i) the layout plans should be drawn to scale and depicted with dimensions and nature of occupancy; and
  - (ii) the locations of the proposed FSIs to be installed and the access for emergency vehicles should be clearly indicated on the layout plans; and
- (e) detailed fire safety requirements will be formulated upon receipt of formal submission of the aforesaid plans. The applicant will need to subsequently provide such FSIs according to the approved proposal.

### **Agriculture**

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

- (a) the Site is currently used as an open storage. Nevertheless, the agricultural activities in its vicinity are active. The Site can be used for plant nursery or greenhouse. As such, she does not support the application from the agricultural development point of view; and
- (b) as the Site is closely located to Ping Yuen River, precautionary measures to avoid any disturbance and pollution to the river should be implemented.

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

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

he has consulted the locals regarding the application. The Indigenous Inhabitant Representative (IIR) of Tong Fong supports the application whereas the incumbent North District Council (NDC) member of the subject constituency, the IIR and Resident Representative (RR) of Lei Uk, and the RR of Tong Fong have no comment on the application. IIR of Lei Uk indicates that noise, in particular at night, should be minimized. The Vice-chairman of Ta Kwu Ling District Rural Committee, and IIR and RR of Fung Wong Wu object to the application on the views that the workshop generates noise and odour affecting the nearby residents.

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

- (a) Chief Engineer/New Territories East, Highways Department (CHE/NTE, HyD);
- (b) Project Manager (North), North Development Office, Civil Engineering and Development Department (PM(NTE), CEDD); and
- (c) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD).

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

On 5.5.2017, 15.8.2017 and 23.1.2018 respectively, the application was published for public inspection. During the first three weeks of the statutory public inspection periods, ten public comments were received (**Appendix V**). A NDC member and the Chairman of Sheung Shui District Rural Committee (they made comment in each of the public inspection periods) have no comment on the application, whereas an individual who also made comment in each of the public inspection periods, objects to the application mainly on the ground that the applied use should be accommodated in custom built high-rise industrial buildings. The remaining comment from an individual enquires the background of the previous revoked applications and whether they are submitted by the same applicant, the Site is involved in any unauthorized development, and any enforcement action has been taken.

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

12.1 The Site falls within Category 2 area under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) promulgated by the Board on 17.10.2008. 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 3 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, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

12.2 The Site falls within an area zoned “AGR” on the OZP. The applied 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 it is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. DAFC does not support the application from the agricultural development point of view as the Site possesses potential for agricultural rehabilitation. Nevertheless, it is noted that the Site has been hard paved and approved for similar open storage use on a temporary basis before. The approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of “AGR” zone.

12.3 The temporary open storage use under application is not incompatible with the surrounding land uses comprising open storage, active/fallow agricultural land and unused/vacant land (**Plan A-2**). Significant adverse landscape impact arising from the development is not anticipated. CTP/UD&L, PlanD, in this regard, has no objection to the application from the landscape planning point of view. CE/DP, DSD indicates that a small portion of the Site falls within the project limit of “PWP Item 119 CD – Drainage Improvement in Northern New Territories – Package C (Remaining Works)” (**Plan A-2**), the implementation programme of which is currently under review. As the planning application is on a temporary basis for a period of three years only, he has no objection to the application from the drainage projects viewpoint. The applicant has submitted a TIA for the development to demonstrate the temporary use under application would not generate adverse traffic impact to the surrounding areas. The applicant also undertakes

to restrict all vehicular traffic of the Site be carried out within the non-peak hours and traffic controllers will be assigned to ensure the safety of pedestrian when the vehicles entering and exiting the Site (**Appendix If**). In this regard, C for T has no further comment on the application.

- 12.4 DEP does not support the application as there are sensitive receivers, i.e. temporary domestic structures, in the vicinity of the Site, the closest one is located to the southeast of the Site at a distance of about 60m (**Plan A-2**) and there was one substantiated environmental complaint on noise aspect against the Site in 2017 during the past three years. Other Government departments consulted, including D of FS, CE/C of WSD and CE/MN of DSD, have no objection to or no adverse comment on the application.
- 12.5 The application generally complies with the Town Planning Board Guidelines PG-No. 13E for 'Application for Open Storage and Port Back-up Uses' in that there are previous approvals for similar use on part of the Site and no major adverse departmental comments have been received on the application. The technical concerns of relevant Government departments / local objection on the application could be addressed by way of stipulating relevant approval conditions. Besides, the applicant would be advised to follow the environmental mitigation measures set out in the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites'.
- 12.6 The Site is the subject of eight previous planning applications. Except the first two applications rejected by the Committee or by the Board on review in 1991 and 1996 respectively, all other six planning applications for temporary open storage of building/construction materials were approved by the Committee or by the Board on review between 2001 and 2013 mainly on the grounds of the falling within the "tolerated" area in the broad strategy for considering applications for temporary open storage and port back-up uses; complied with the Town Planning Board Guidelines TPB PG-No.13E and TPB PG-No.34A; subject of previous approvals and no major adverse comments from the concerned Government departments. As compared with the previously approved application No. A/NE-TKL/460, the current application is submitted by the same applicant with a slightly larger site area (increase from about 1,609 m<sup>2</sup> to 1,636 m<sup>2</sup>) with different layout, no. of parking spaces and the total floor area increases from 398.44 m<sup>2</sup> to 852.08 m<sup>2</sup>. The last approval (application No. A/NE-TKL/460) was revoked due to the non-compliance with approval condition related to the implementation of tree preservation and landscape proposals. Nevertheless, other approval conditions related to provisions of drainage facilities and fire services installation under application No. A/NE-TKL/460 had been complied with. The applicant also demonstrated genuine efforts by submitting landscape and drainage proposals (**Drawings A-2 and A-3**) under the current application. CTP/UD&L, PlanD and CE/MN, DSD have no adverse comment on the landscape and drainage proposals.
- 12.7 Out of 23 similar applications in the vicinity of the Site (**Plan A-1**), ten of them involving five sites<sup>1</sup> for temporary open storage of construction equipment/materials/machinery and proposed temporary curtain wall testing centre, ancillary office and open storage of materials were approved with conditions by the Committee or by the Board on review between 2008 and 2017 mainly on the considerations that the proposed developments generally complied with the relevant Town Planning Board Guidelines; there were similar applications approved in the vicinity; and there were no adverse departmental comments and local objections. For the remaining 13 rejected similar cases in 2008 to

---

<sup>1</sup> Two sites are in Category 2 area under TPB PG-No.13E and two sites are largely zoned "Industrial (Group D)" on the OZP.

2017, they were rejected mainly on considerations that the proposed developments were not in line with the planning intention of “AGR” zone; the developments did not comply with the relevant Town Planning Board Guidelines; there were adverse departmental comments / local objections; the applicants failed to demonstrate that developments would not generate adverse impacts on the surrounding areas; and the setting of undesirable precedents for similar applications. The planning circumstance of the current application is similar to those of the approved cases.

- 12.8 As the last application No. A/NE-TKL/460 was revoked due to the non-compliance with approval condition, shorter compliance periods are recommended to closely monitor the progress of compliance should the Committee decide to approve the current application. Moreover, the applicant would also be advised that should he fail to comply with the approval conditions again resulting in the revocation of the planning permission, sympathetic consideration would not be given to any further application.
- 12.9 Regarding the adverse public comment and local objection mainly on nuisance affecting the nearby residents, and land use incompatibility, Government departments’ comments and planning assessment 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, the Planning Department considers that the temporary use under application could be tolerated for a period of 3 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 3 years until 4.5.2021. The following conditions of approval with shorter compliance periods and advisory clauses are also suggested for Members’ reference:

#### Approval Conditions

- (a) no operation between 6:30 p.m. and 8:00 a.m., 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) all vehicles entering and exiting the Site during the planning approval period shall be restricted to non-peak hours (i.e. from 10:00 a.m. to 4:00 p.m.), as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (d) no container tractor/trailer is allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (e) the peripheral fencing and paving of the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities within 3 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 4.8.2018;

- (g) the provision of fire extinguisher(s) 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 15.6.2018;
- (h) the submission of proposals for water supplies for firefighting and fire service installations within 3 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 4.8.2018;
- (i) in relation to (h) above, the provision of water supplies for firefighting and 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 4.11.2018;
- (j) the submission of tree preservation and landscape proposals within 3 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.8.2018;
- (k) in relation to (j) above, the implementation of tree preservation and landscape proposals within 6 months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 4.11.2018;
- (l) if any of the above planning conditions (a), (b), (c), (d) or (e) 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 (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 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 VI**.

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

the applied use is not in line with the planning intention of the "Agriculture" zone in the Ping Che and Ta Kwu Ling area which is primarily to retain and safeguard good agricultural land/farm/fish ponds for agricultural purposes, and it is also intended 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 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 26.4.2017
<b>Appendix Ia</b>	Letter dated 8.6.2017 requesting for deferment of consideration of the application
<b>Appendix Ib</b>	Further Information received on 3.7.2017
<b>Appendix Ic</b>	Letter dated 5.9.2017 requesting for deferment of consideration of the application
<b>Appendix Id</b>	Further Information received on 2.11.2017
<b>Appendix Ie</b>	Letters dated 4.12.2017 and 21.2.2018 requesting for deferment of consideration of the application
<b>Appendix If</b>	Further Information received on 17.4.2018
<b>Appendix II</b>	Relevant Extract of TPB PG-No. 13E for Application for Open Storage and Port Back-up Uses
<b>Appendix III</b>	Previous s.16 Applications
<b>Appendix IV</b>	Similar s.16 Applications within / partly within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area
<b>Appendix V</b>	Public Comments
<b>Appendix VI</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Landscape Proposal
<b>Drawing A-3</b>	Drainage Proposal
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a &amp; A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
MAY 2018**