

RNTPC Paper No. A/NE-TKL/600B
 For Consideration by the
 Rural and New Town Planning
 Committee on 1.2.2019

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/600

- Applicant** : Y. C. Motors Engineering Company represented by Aikon Development Consultancy Limited
- Site** : Lot 1 (Part) in D.D. 84, Ping Che, Ta Kwu Ling, New Territories
- Site Area** : 389.1 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Temporary Vehicle Repair Workshop with Ancillary Site Office for Contractor Vehicles serving Public Works 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 vehicle repair workshop with ancillary site office for contractor vehicles serving public works for a period of three years (**Plan A-1**). The Site falls within an area 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 or development is not provided for under the Notes of the OZP. The Site is currently occupied by the applied use without a valid planning permission.
- 1.2 According to the applicant, there is one temporary canopy structure at the north-east part of the Site for vehicle repair workshop and an ancillary site office located under the canopy. The total floor area of the proposed development is about 216.1m², which includes a canopy structure with a height of about 5.3m for vehicle repair workshop and a stacked-up containers (2-storey high) including a staircase platform for site office at the northern corner of the Site (**Drawing A-1**). One parking space for private car (measuring 5m x 2.5m) will be provided at the Site for operation needs (**Drawing A-1**). The Site is abutting a local road leading to Ping Che Road with the 5.5m wide ingress/egress at the southwestern corner of the Site which has set back 5m from the

local road (**Drawing A-1 and PlanA-2**). The operation hours are from 8:00 a.m. to 7:00 p.m. from Monday to Saturday and no operation on Sundays and public holidays. According to the applicant, the development will only provide vehicle emergency repairing services for contractor private vehicles serving the site formation and associated infrastructural works at Sandy Ridge Cemetery and Liantang/Heung Yuen Wai Boundary Control Point (the Public Works sites). A maximum of 7 daily trips will be made by private car to/from the Site during the period from 10:00 a.m. to 4:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. The layout plan, proposed landscape plan and drainage plan submitted by the applicant are at **Drawings A-1 to A-3** respectively.

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

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|--|------------------------|
| (a) Application Form received on 20.6.2018 | (Appendix I) |
| (b) Supplementary Planning Statement received on 20.6.2018 | (Appendix Ia) |
| (c) Supplementary Information for a replacement page of the Planning Statement received on 21.6.2018 | (Appendix Ib) |
| (d) Supplementary Information for a replacement page of the Application Form received on 27.6.2018 | (Appendix Ic) |
| (e) Letter dated 8.8.2018 requesting for deferment of consideration of the application | (Appendix Id) |
| (f) Further Information received on 14.8.2018 | (Appendix Ie) |
| (g) Further Information received on 22.8.2018 | (Appendix If) |
| (h) Further Information received on 27.9.2018 | (Appendix Ig) |
| (i) Letter dated 10.10.2018 requesting for deferment of consideration of the application | (Appendix Ih) |
| (j) Further Information received on 17.12.2018 | (Appendix Ii) |
| (k) Further Information received on 24.12.2018 | (Appendix Ij) |

1.4 At the request of the applicant (**Appendices Id and Ih**), the Rural and New Town Planning Committee (the Committee) of the Board agreed on 17.8.2018 and 19.10.2018 respectively to defer making a decision on the application for two months each pending the preparation of further information to address departmental comments. The applicant submitted the further information (**Appendices If, Ig, Ii and Ij**) on 22.8.2018, 27.9.2018, 17.12.2018 and 24.12.2018 respectively and the application is re-scheduled for consideration by the Committee on 1.2.2019.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Section 5 of the Supplementary Planning Statement at **Appendix Ia** and further information at **Appendices Ie to Ig** and **Ii to Ij**. They can be summarized as follows:

- (a) the application should be considered on an exceptional basis as the Site only serves vehicles in private car type operated by contractors undertaking the infrastructural works of the Liantang/Heung Yuen Wai Boundary Control Point and, the site formation and associated infrastructural works at Sandy Ridge Cemetery. The applicant submitted written justifications and documents (**Appendices Ie, If, Ii and Ij**) from the sub-contractors of these Public Works Sites;

- (b) the subject vehicular repairing service is essential for the Public Works sites and there is no space available at the Public Works sites to accommodate such use;
- (c) the subject development is not incompatible with the surrounding land uses which are predominantly characterized by temporary structures for storage/workshop use, open storage uses and site office for other public works which are either subject to planning approval or in existence immediately before the gazettal of the Interim Development Permission Area Plan (the IDPA Plan);
- (d) alternative sites for the same applied use are not available. They are either occupied by other operators or required planning permission from the Board; and there have always been traffic jam from Sheung Shui and Fanling Town Centres to the Public Works Site in Sandy Ridge. Hence, the Site for proposed use is considered ideal and timesaving;
- (e) there have been a number of approved planning applications for open storage, vehicle workshop or factory uses in the vicinity of or within the “AGR” zone of the current OZP;
- (f) the applicant claimed that the planning circumstances of application No. A/NE-TKL/256 for vehicle repair workshop (**Plan A-1**), which was rejected by the Board in 2004, is different from the subject application. The said application was located at a piece of agricultural land whereas the Site has long been hard paved prior to the gazettal of the IDPA Plan;
- (g) temporary nature of the applied use would not jeopardize the planning intention of “AGR” zone and, the current application, if allowed, could flexibly meet the demand for the applied use;
- (h) the Site is not suitable for agricultural use due to its irregular shape and small in size; and the Site has long been hard paved which makes it difficult for agricultural activities;
- (i) with locational advantages and exceptional physical state (i.e. hard paved land before the gazettal of the IDPA plan) , the proposed use could optimize and utilize the Site;
- (j) there will be no adverse drainage, traffic, visual nor noise impact caused by the proposed use;
- (k) the applicant has proposed traffic management/control measures including proposed vehicular gate and a traffic controller to enhance the safety of site access; and
- (l) no undesirable precedent will be created given the unique historical background i.e. the Site has long been hard-paved and the exceptional nature of the proposed use i.e. only serves those contractor vehicles from Public Work sites. Approving the application would not set a precedent to the approval of other similar applications under any circumstances.

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 the consent from the 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, Planning Department, the Site is the subject of an active enforcement case. An Enforcement Notice (EN) (E/NE-TKL/375) was served on 14.3.2018 requiring the concerned parties to discontinue the unauthorized workshop use in the Site on or before 14.6.2018. According to his recent record, the unauthorized development was discontinued and Compliance Notice was issued on 15.11.2018.

5. **Previous Application**

There is no previous application for the Site.

6. **Similar Applications**

- 6.1 There are two rejected similar applications (Nos. A/NE-TKL/256 and 574) for temporary vehicle repair workshop within/partly within the same "AGR" zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling area.
- 6.2 The application No. A/NE-TKL/256 for temporary vehicle repair workshop, which was quoted by the applicant in the subject application, was rejected by the Committee on 28.5.2004 mainly on the considerations that the development was not in line with the planning intention of the "AGR" zone; and the applicant had failed to demonstrate that the development would not generate adverse environmental and traffic impacts on the surrounding areas.
- 6.3 Another similar application (No. A/NE-TKL/574) for proposed temporary shop and services (car beauty services) and vehicle repair workshop was rejected by the Committee on 13.10.2017 mainly on the grounds that the development was not in line with the planning intention of the "AGR" zone; the applicants had failed to demonstrate that the development would not generate adverse traffic impacts on the surrounding areas; and the approval of the application would set an undesirable precedent for similar applications within the "AGR" zone.
- 6.4 Details of these similar applications are at **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) flat, formed and fenced off;

- (b) mostly vacant and partly covered by a canopy, with two converted containers deposited at the northern portion and some repairing tools deposited at the northern and eastern edges (**Plan A-4a**);
- (c) no vehicle repair activities as revealed by site inspection on 16.1.2019 (**Plans A-4a and A-4b**); and
- (d) accessible from Ping Che Road via a local road (**Plan A-2**).

7.2 The surrounding areas have the following characteristics:

- (a) the surrounding land use are predominantly unused land, active and fallow agricultural land, temporary structures for domestic use, warehouses and open storage yards;
- (b) to the north-west is a vegetated “Green Belt” (“GB”) zone, and further north across a local road are fallow agricultural land and further west across another local road are active agricultural land with some domestic structures;
- (c) to the immediately east is the Ping Yuen River, and further east across the Ping Yuen River are a temporary site office and an open storage yard (**Plans A-2 and A-3**); and
- (d) to the immediately south across a local road is a vacant land, and further south is a vegetated “GB” zone.

8. Planning Intention

The planning intention of the “AGR” zone in the Ping Che and Ta Kwu Ling area is intended 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 Comment of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lot which is Old Schedule lot held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access;

- (b) he noted that:
 - (i) the occupation boundary does not tally with the application boundary of the Site; and
 - (ii) an unauthorized structure was erected within the occupation boundary of the application lot;
- (c) the unauthorized structure concerned is not acceptable under the Lease. His office reserves the right to take necessary lease enforcement actions against it; and
- (d) if the application is approved, the owner of the lot shall apply to his office for a Short Term Waiver (STW) to regularize the illegal structure erected on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW application is approved, its 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 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) according to the submitted Planning Statement (**Appendix Ia**), the Site will only allow entry/exit of vehicles between 10:00 a.m. to 4:00 p.m. with no more than 7 vehicle trips per day. Based on the submission, it is considered that the traffic impact is tolerable; and
- (b) he has no further comment on the application after reviewing the further information submitted by the applicant (**Appendix Ig**); and
- (c) should the application be approved, approval condition for submission and implementation of traffic management measures is recommended.

Project Interface

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

- (a) he has no comment on the application from the project interface point of view; and
- (b) regarding the further information submitted by the applicant (**Appendices Ie to Ig** and **Ii to Ij**), the applicant is one of the vehicle repair workshops offering repairing services for construction vehicles engaged in Contract No. CV/2016/10 "Site formation and Associated Infrastructural Works for Development of Columbarium at Sandy Ridge Cemetery". Based on the current progress of the works, he does not envisage substantial vehicle repairing services for their works.

9.1.4 Comments of Chief Engineer/Land Works Division, Civil Engineering and Development Department (CE/LW, CEDD):

- regarding the further information submitted by the applicant (**Appendices Ii and Ij**), there is no requirement in the Contract, and hence it is entirely up to the Contractor, on where and how the construction vehicles are to be serviced. He opined that the usage of the Public Works site under government contract does not link with the planning application for land use for commercial vehicle repair facilities.

9.1.5 Comments of the Chief Project Managers 202 and 301, Architectural Services Department (CPM, ArchSD):

- (a) according to the Executive Summary in the applicant 's planning statement, the Site is serving the site formation and associated infrastructural works at Sandy Ridge Cemetery and Liantang/Heung Yuen Wai Boundary Control Point;
- (b) the site formation works for Liantang/Heung Yuen Wai Boundary Control Point is under CEDD's purview rather than his office. Having checked with his Contractor (Contract No.: SSC505, Construction of Liantang/Heung Yuen Wai Boundary Control Point (BCP) – BCP Buildings and Associated Facilities), his Contractor advised that the application is not associated with their works;
- (c) the site formation and associated infrastructural works at Sandy Ridge Cemetery is not an ArchSD project and he is not in the position to offer any comment on this application; and
- (d) regarding the further information submitted by the applicant (**Appendices Ie**), the subject application is not associated with ArchSD Contract.

Environment

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

- (a) based on the application (**Appendix I**), supplementary planning statement (**Appendix Ia**) and the further information submitted by the applicant (**Appendix Ie**), he has no objection to the application;
- (b) the applicant is reminded that there is no existing public sewer near the Site, the nearest public sewer is along Ping Che Road which is about 250m away from the Site (**Plan A-1**). To avoid water quality pollution to the nearby Ping Yuen River, the applicant should be advised to connect drainage serving covered areas to a septic tank and soakaway system via petrol interceptor to comply with requirements of ProPECC PN 5/93 Section 7(vii), 8 and 9. Open areas of the Site should be served by drainage channels connected to stormwater drains via petrol interceptor;
- (c) site photos showed an existing toilet on the Site. The applicant should be

advised to comply with the requirements of ProPECC PN 5/93 Section 8 & 9 in the treatment and disposal of sewage, or provide chemical toilet which involves no discharge;

- (d) there was no substantiated environmental complaint against the Site in the past three years; and
- (e) should the application be approved, the applicant should be reminded of the obligation to comply with all environmental protection/pollution control ordinances, in particular Water Pollution Control Ordinance, and to follow relevant noise and sewage mitigation measures and requirements in the latest “Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (COP)” as given in Notes to Annex I of the COP.

Landscape

9.1.7 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) according to the latest aerial photo of 2018, the Site is situated in a disturbed rural landscape character area with large areas of temporary open storages and warehouses to the south, two pieces of wooded areas in “Green Belt” zone are found to the north and south-west. Some active farmlands are found to the west of the Site separated by an area of natural vegetation. It is noted that the Site was formed over two decades as compared to aerial photo of 1986. The proposed use is not entirely incompatible with the existing site context;
- (c) according to her site record, the Site is fenced off, hard paved with temporary structure. The site access abuts a local track and the proposed use is in operation. One young *Ficus hispida* (對葉榕) of medium amenity value, located outside fence but within the Site, will not be affected. Thus no significant landscape impact arising from the proposed use will be anticipated. The submitted landscape proposal (**Drawing A-2**) provides some screen planting along the local track at the south; and
- (d) inadequate planting area was observed along the eastern and southern boundary fence for tree planting, and as there is no major public frontage along the site boundary, should TPB approve the application, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

Drainage

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

- (a) he has no in-principle objection to the application;
- (b) the Site is in an area where no public sewer connection is available. EPD should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank;
- (c) 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 areas. The one proposed in the application (**Drawing A-3**) is not acceptable;
- (d) there is a preliminary plan to resume a portion of the lot adjacent to the river for a river improved project planned to commence in early 2023;
- (e) the applicant should be advised that:
 - (i) the Site is adjacent to a section of Ping Yuen River which is protected under the Land Drainage Ordinance (LDO). The requirements/conditions in LDO are applied if the works/development under this application would affect this river; and
 - (ii) there were flooding complaints received related to this area. The applicant should provide adequate drainage system accordingly to safeguard his/her interest; and
- (f) the general requirements in the drainage proposal are appended in **Appendix III**.

Water Supply

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

- (a) he has no objection to the application subject to the following comments;
- (b) existing water mains are inside the Site and will be affected. The applicant is required to either divert or protect the water mains found on site with detailed comments appended in **Appendix IV**; and
- (c) for provision of water supply to the development, the applicant may need to extend the 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.

Building Matters

9.1.10 Comments of the Chief Building Surveyor/New Territories West, Buildings

Department (CBS/NTW, BD):

- (a) there is no record of approval by the Building Authority (BA) for the buildings/structures existing at the Site and his department 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 (not being a New Territories Exempted House), 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 (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized 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 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 the Building (Planning) Regulations (B(P)Rs) respectively; and
- (f) if the Site does not abut a specified street of not less than 4.5m wide, its development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.

Agriculture and Nature Conservation

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

- (a) the Site is a vehicle repair workshop. Agricultural activities in the vicinity are active. Agricultural infrastructures such as road access and water source are available. The Site can be used as greenhouse cultivation or plant nursery. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agriculture point of view;
- (b) the Site is adjacent to Ping Yuen River (**Plan A-2**). Should the application be approved due to other consideration, the applicant should be reminded to perform good site practice to prevent surface run-off and debris from polluting the river nearby; and
- (c) on the other hand, there is a woodland to the immediate northeast of the Site. Should the application be approved due to other consideration, the applicant should be reminded not to disturb/damage any tree in the woodland nearby.

Fire Safety

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

- 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.

District Officer's Comments

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

- (a) he has consulted the locals regarding the application;
- (b) the Chairman and Vice-Chairman of Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Lei Uk support the proposal mainly on the grounds that the proposed development can speed up the control point projects; the proposed development will not create nuisance to surrounding villagers due to its remote location, specified operation hours, nature of operation and the presence of fencing; no adverse public comment against the application has been received; and the applicant agreed to install external lighting and closed circuit television for the benefit of villagers; and
- (c) the incumbent North District Council (NDC) member of subject constituency, the IIR and RR of Tai Po Tan have no comments on the application.

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

- (a) Chief Highway Engineer/New Territories East, Highways Department (CE/NTE, HyD);
- (b) Head of Geotechnical Engineering Office, Civil Engineering and Development Department (H(GEO), CEDD); and
- (c) Director of Electrical and Mechanical Services Department (DEMS).

10. Public Comments Received During Statutory Publication Periods

On 29.6.2018, the application was published for public inspection. During the statutory public inspection period, seven public comments were received (**Appendix V**). Two comments from the Chairman of Sheung Shui District Rural Committee and a NDC member indicate no comment on the application. Another NDC member supports the application mainly on the grounds that proposed development can speed up the control point projects; no nuisance will be created to surrounding villagers; no adverse public comment against the application has been received; and villagers can be benefited from the proposed development. Four comments from Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature of Hong Kong, The Hong Kong Bird Watching Society and an individual object to the

application mainly on the grounds that the proposed development is incompatible with the surrounding land uses; not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent for other similar applications; no information has been provided by the applicant to demonstrate that the proposed development would not generate adverse drainage, ecological and/or environmental impacts on the surrounding areas; and ‘development first, application later’ and/or ‘destroy first, build later’ should not be tolerated as it would further legitimize the current misuse of the “AGR” zone.

11. Planning Considerations and Assessments

- 11.1 The Site falls within an area zoned entirely “AGR” on the OZP. The applied use is not in line with the planning intention of the “AGR” zone, which is intended 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. DAFC does not support the application as the Site possesses potential for agricultural rehabilitation and can be used as greenhouse cultivation or plant nursery. No strong planning justification has been given in the submission to justify for a departure from the planning intention, even on a temporary basis.
- 11.2 The Site is formed and hard paved, and the surrounding areas are in rural character mixed with vacant land, agricultural land, open storage yards, warehouses and domestic structures. As no significant landscape impact arising from the applied use is anticipated, CTP/UD&L, PlanD has no objection to the application from the landscape planning point of view.
- 11.3 The subject application is for temporary vehicle repair workshop with ancillary site office for contractor vehicles serving public works for a period of three years. As claimed by the applicant, the temporary vehicle repair workshop only serves vehicles in private car type operated by contractors undertaking the infrastructural works of the Liantang/Heung Yuen Wai Boundary Control Point and the site formation and associated infrastructural works at Sandy Ridge Cemetery. The applicant has provided letters from contractors affirming that the temporary vehicle repair workshop is to provide services for their vehicles and CEDD, PM(N) confirmed that the applicant is one of the vehicle repair workshops offering repairing services for construction vehicles engaged in Public Works site at Sandy Ridge Cemetery. Nevertheless, based on the current progress of the works, CEDD does not envisage substantial vehicle repairing services for their works. Besides, CE/LW, CEDD opined that the usage of the public works site under Government contract does not link with the planning application for land use for commercial vehicle repair facilities. It is entirely up to the Contractor for the public works to decide where and how the construction vehicles to be serviced. Also, ArchSD advised that the subject application is not directly associated with the infrastructural works at Liantang/Heung Yuen Wai Boundary Control Point.
- 11.4 As for drainage impact, CE/MN, DSD has no objection to the application. However, he advised that the drainage proposal submitted (**Drawing A-3**) is considered unacceptable. In order to ensure that the development will not cause adverse drainage impact to the surrounding areas, the applicant is required to submit and implement a revised drainage proposal to his satisfaction. Other Government departments consulted, including C for T, DEP, D of FS, CE/NTE, HyD and CE/C of WSD have no

objection to or adverse comment on the application.

- 11.5 There are two similar applications (No. A NE-TKL/256 and 574) for temporary vehicle repair workshop / proposed temporary shop and service (car beauty services), vehicle repair workshop for a period of 3 years within/partly within the same “AGR” zone in the vicinity of the Site (**Plan A-1**). Both of them were rejected by the Committee on 29.5.2004 and 13.10.2017 respectively, mainly on the grounds that the development was not in line with the planning intention of the “AGR” zone; the applicants had failed to demonstrate that the developments would not generate adverse environmental and traffic impacts on the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. For the subject application, while there are no adverse comments from TD and EPD from traffic and environmental perspectives, there are still active agricultural land and a plant nursery in the vicinity of the Site. While there are some open storage yards and warehouses in the vicinity of the Site (**Plan A-2**), some are “existing uses” tolerated under the Town Planning Ordinance (TPO) and others are suspected unauthorised developments that, subject to sufficiency of evidence, may be enforced under the TPO. The approval of the application would set an undesirable precedent for similar applications in the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.
- 11.6 Regarding the adverse public comments objecting to the application mainly on the grounds that the proposed development is incompatible with the surrounding land uses; not in line with the planning intention of the “AGR” zone; approval of the application would set an undesirable precedent for other similar applications; no information has been provided by the applicant to demonstrate that the proposed development would not generate adverse drainage, ecological and/or environmental impacts on the surrounding areas; and ‘development first, application later’ and/or ‘destroy first, build later’ should not be tolerated as it would further legitimize the current misuse of the “AGR” zone, the Government departments’ comments and planning considerations and assessments above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into the public comments summarized in paragraph 10 above, the Planning Department does not support the application for the following reasons:
- (a) the development under the application is not in line with the planning intention of “AGR” zone in the Ping Che and Ta Kwu Ling area which is intended 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 from a departure from the planning intention, even on a temporary basis; and
 - (b) the approval of the application will set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

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 1.2.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 7:00 p.m. and 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) the peripheral fencing shall be maintained on Site at all times during the planning approval period;
- (e) the submission of traffic management measures within 6 months from the date of planning approval to the satisfaction of the Commissioner for Transport or of the Town Planning Board by 1.8.2019;
- (f) in relation to (e) 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 1.11.2019;
- (g) 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 1.8.2019;
- (h) in relation to (g) 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 1.11.2019;
- (i) the submission of proposals for 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 1.8.2019;
- (j) in relation to (i) above, the implementation of proposals for water supplies for firefighting and 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 1.11.2019;
- (k) any of the above planning conditions (a), (b), (c) or (d) 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;

- (l) if any of the above planning conditions (e), (f), (g), (h), (i) or (j) 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
- (m) 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 VI**.

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 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

Appendix I	Application Form with Attachments received on 20.6.2018
Appendix Ia	Supplementary Planning Statement received on 20.6.2018
Appendix Ib	Supplementary Information for a replacement page of the Planning Statement received on 21.6.2018
Appendix Ic	Supplementary Information for a replacement page of the Application Form received on 27.6.2018
Appendix Id	Letter dated 8.8.2018 requesting for deferment of consideration of the application
Appendix Ie	Further Information received on 14.8.2018
Appendix If	Further Information received on 22.8.2018
Appendix Ig	Further Information received on 27.9.2018
Appendix Ih	Letter dated 10.10.2018 requesting for deferment of consideration of the application
Appendix Ii	Further Information received on 17.12.2018
Appendix Ij	Further Information received on 24.12.2018
Appendix II	Similar s.16 Applications within/partly within the “AGR” zone in the vicinity of the Site in the Ping Che and Ta Kwu Ling OZP
Appendix III	Detailed Comments of Chief Engineer/Mainland North, Drainage Services Department
Appendix IV	Detailed Comments of Chief Engineer/Construction, Water Supplies

Appendix V	Department
Appendix VI	Public Comments
Drawing A-1	Recommended Advisory Clauses
Drawing A-2	Indicative Layout Plan
Drawing A-3	Proposed Landscape Plan
Plan A-1	Proposed Drainage Plan
Plan A-2	Location Plan
Plan A-3	Site Plan
Plans A-4a & 4b	Aerial Photo
	Site Photos

**PLANNING DEPARTMENT
FEBRUARY 2019**

**Similar S.16 Applications for Temporary Vehicle Repair Workshop
within/partly within “Agriculture” Zone in the vicinity of the Application Site
in the Ping Che and Ta Kwu Ling Area**

Rejected Applications

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-TKL/256	Temporary Vehicle Repair Workshop for a Period of 3 Years	28.5.2004	R1 – R2
A/NE-TKL/574	Proposed Temporary Shop and Services (Car Beauty Services), Vehicle Repair Workshop for a Period of 3 Years	13.10.2017	R3 – R5

Rejection Reasons

- R1 The application site fell within an area zoned "Agriculture" ("AGR"). The "AGR" zone was intended primarily to retain and safeguard good quality agricultural land/farms/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention, even on a temporary basis.
- R2 There was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental and traffic impacts on the surrounding areas.
- R3 The development under application was not in line with the planning intention of “AGR” zone in Ping Che and Ta Kwu Ling area which was 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 was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- R4 The applicants failed to demonstrate in the submission that the development would not cause adverse traffic impact on the surrounding areas.
- R5 The approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

Detailed Comments of Chief Engineer/Mainland North, Drainage Services Department

- (a) the general requirements in the drainage proposal should include:
- (i) surface channel with grating covers should be provided along the site boundary;
 - (ii) the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel, catchpits and the discharge structure shall be provided;
 - (iii) the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - (iv) catchpit with covers should be provided where there is a change of direction of the channel/drain;
 - (v) catchpits with sand trap shall be provided at the outlets of the proposed drainage system;
 - (vi) the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
 - (vii) the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
 - (viii) for those existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD, the applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
 - (ix) the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;
 - (x) the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
 - (xi) for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
 - (xii) the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
 - (xiii) the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and

- (xiv) clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the Site.

Detailed Comments of Chief Engineer/Construction, Water Supplies Department

- (a) if diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant. The applicant shall submit all relevant proposal to WSD for consideration and agreement before the works commence;
- (b) if diversion is not required, the following conditions shall apply:
 - (i) existing water mains are affected and no development which requires resiting of water mains will be allowed;
 - (ii) details of site formation works shall be submitted to the Director of Water Supplies for approval prior to commencement of works;
 - (iii) no structures shall be built or materials stored within 1.5m from the centrelines of water mains. Free access shall be made available at all times for staff of the DWS or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - (iv) no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water mains. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the DWS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;
 - (v) no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
 - (vi) tree planting may be prohibited in the event that the DWS considers that there is any likelihood of damage being caused to water mains; and:

Recommended Advisory Clauses

- (a) prior planning permission should have been obtained before commencing the applied use at the Site;
- (b) to note the comments of the District Lands Officer/North, Lands Department that:
 - (i) he noted that:
 - (a) the occupation boundary and application boundary of the Site does not tally; and
 - (b) an unauthorized structure was erected within the occupation boundary of the application lot;
 - (ii) the unauthorized structure concerned is not acceptable under the Lease. His office reserves the right to take necessary lease enforcement actions against it; and
 - (iii) the owners of the lot shall apply to his office for a Short Term Waiver (STW) to regularize the illegal structure erected on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW application is approved, its 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 waiver fee and administrative fees as considered appropriate by his office.
- (c) to note the comments of the Director of Environmental Protection (DEP) that:
 - (i) the applicant is reminded that there is no existing public sewer near the Site, the nearest public sewer is along Ping Che Road which is about 250m away from the Site. To avoid water quality pollution to the nearby Ping Yuen River, the applicant should be advised to connect drainage serving covered areas to a septic tank and soakaway system via petrol interceptor to comply with requirements of ProPECC PN 5/93 Section 7(vii), 8 and 9. Open areas of the Site should be served by drainage channels connected to stormwater drains via petrol interceptor;
 - (ii) the applicant should be advised to comply with the requirements of ProPECC PN 5/93 Section 8 & 9 in the treatment and disposal of sewage, or provide chemical toilet which involves no discharge; and
 - (iii) the applicant should be reminded of the obligation to comply with all environmental protection/pollution control ordinances, in particular Water Pollution Control Ordinance, and to follow relevant noise and sewage mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (COP)" as given in Notes to Annex I of the COP.
- (d) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that inadequate planting area was observed along the eastern and southern boundary fence for tree planting, and as there is no major public frontage along the site boundary, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

- (e) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that:
- (i) the Site is in an area where no public sewer connection is available. EPD should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank;
 - (ii) the drainage proposal proposed in the application is not acceptable;
 - (iii) the Site is adjacent to a section of Ping Yuen River which is protected under the Land Drainage Ordinance (LDO). The requirements/conditions in LDO are applied if the works/development under this application would affect this river;
 - (iv) there were flooding complaints received related to this area. The applicant should provide adequate drainage system accordingly to safeguard his/her interest; and
 - (v) the general requirements in the drainage proposal are appended in **Appendix III**.
- (f) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that:
- (i) existing water mains are inside the Site and will be affected. The applicant is required to either divert or protect the water mains found on site with detailed comments appended in **Appendix IV**; and
 - (ii) for provision of water supply to the development, the applicant may need to extend the 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.
- (g) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iii) 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;
 - (iv) 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 the Building (Planning) Regulations (B(P)Rs) respectively; and

- (v) if the Site does not abut a specified street of not less than 4.5m wide, its development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.
- (h) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that:
 - (i) the Site is adjacent to Ping Yuen River. The applicant should be reminded to perform good site practice to prevent surface run-off and debris from polluting the river nearby; and
 - (ii) there is a woodland to the immediate northeast of the Site. The applicant should be reminded not to disturb/damage any tree in the woodland nearby.

Extract of minutes of the 620th RNTPC meeting held on 1.2.2019

Agenda Item 17

Section 16 Application

[Open Meeting (Presentation and Question Sessions Only)]

A/NE-TKL/600 Temporary Vehicle Repair Workshop with Ancillary Site Office for Contractor Vehicles serving Public Works for a Period of 3 Years in “Agriculture” Zone, Lot 1 (Part) in D.D. 84, Ping Che, Ta Kwu Ling (RNTPC Paper No. A/NE-TKL/600B)

Presentation and Question Sessions

74. Mr Tim T.Y. Fung, STP/STN, presented the application and covered the following aspects as detailed in the Paper:

- (a) background to the application;
- (b) the temporary vehicle repair workshop with ancillary site office for contractor vehicles serving public works for a period of three years;
- (c) departmental comments – departmental comments were set out in paragraph 9 of the Paper. The Director of Agriculture, Fisheries and Conservation (DAFC) did not support the application as the site possessed potential for agricultural rehabilitation. The District Officer (North), Home Affairs Department conveyed that the Chairman and Vice-chairman of Ta Kwu Ling District Rural Committee, the Indigenous Inhabitant Representative (IIR) and Resident Representative (RR) of Lei Uk supported the application while the incumbent North District Council (NDC) member of the subject constituency and the IIR and RR of of Tai Po Tan had no comments on the application. Major views were set out in paragraph 9.1.13 of the Paper. Other concerned government departments had no objection to or no adverse comments on the application;

- (d) during the first three weeks of the statutory publication period, seven public comments from the Chairman of Sheung Shui District Rural Committee, NDC members, the Kadoorie Farm and Botanic Garden Corporation, World Wide Fund for Nature Hong Kong, The Hong Kong Bird Watching Society and an individual were received. Amongst them, one supported, four objected and two indicated no comment on the application. Major views were set out in paragraph 10 of the Paper; and
- (e) the Planning Department (PlanD)'s views – PlanD did not support the application based on the assessments set out in paragraph 11 of the Paper. The applied use was not in line with the planning intention of the “Agriculture” (“AGR”) zone and DAFC did not support the application. No strong planning justification had been given in the submission to justify for a departure from the planning intention, even on a temporary basis. Approval of the application would set an undesirable precedent for similar applications in the “AGR” zone, the cumulative effect of which would result in a general degradation of the environment of the area. No previous approval had been granted for the site and two similar applications within the same “AGR” zone were also rejected by the Committee. Regarding the public comments, the comments of government departments and the planning assessments above were relevant.

75. Members had no question on the application.

Deliberation Session

76. After deliberation, the Committee decided to reject the application. The reasons were :

- “(a) the development under the application is not in line with the planning intention of “Agriculture” (“AGR”) zone in the Ping Che and Ta Kwu Ling area which is intended 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 the planning intention, even on a temporary basis; and

- (b) the approval of the application will set an undesirable precedent for similar applications within the same “AGR” zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.”

Agenda Item 18

Section 16 Application

[Open Meeting]

A/NE-TKL/607 Proposed Temporary Place of Recreation, Sports or Culture (Hobby farm) for a Period of 3 Years in “Agriculture” Zone, Lots 520 (Part) and 522 RP (Part) in D.D. 77, Ping Che, Ta Kwu Ling
(RNTRC Paper No. A/NE-TKL/607)

77. The Committee noted that the applicant’s representative requested on 16.1.2019 deferment of consideration of the application for a period of two months in order to allow time to prepare further information on the development scheme. It was the first time that the applicant requested deferment of the application.

78. After deliberation, the Committee decided to defer a decision on the application as requested by the applicant pending the submission of further information from the applicant. The Committee agreed that the application should be submitted for its consideration within two months from the date of receipt of further information from the applicant. If the further information submitted by the applicant was not substantial and could be processed within a shorter time, the application could be submitted to an earlier meeting for the Committee’s consideration. The Committee also agreed to advise the applicant that two months were allowed for preparation of the submission of the further information, and no further deferment would be granted unless under very special circumstances.

城市規劃委員會

香港北角渣華道三百三十三號
北角政府合署十五樓

TOWN PLANNING BOARD

15/F., North Point Government Offices
333 Java Road, North Point,
Hong Kong.

傳 真 Fax: 2877 0245 / 2522 8426

電 話 Tel: 2231 4810

來函檔號 Your Reference:

覆函請註明本會檔號

In reply please quote this ref.: TPB/A/NE-TKL/600

By Registered Post & Fax (3180 7611)

22 February 2019

Aikon Development Consultancy Ltd.
Unit 1310, Level 13, Tower 2, Metroplaza
223 Hing Fong Road
Kwai Chung, New Territories
(Attn.: Thomas Luk)

Dear Sir/Madam,

**Temporary Vehicle Repair Workshop with Ancillary Site Office
for Contractor Vehicles serving Public Works for a Period of 3 Years
in "Agriculture" Zone, Lot 1 (Part) in D.D. 84, Ping Che, Ta Kwu Ling**

I refer to my letter to you dated 2.1.2019.

After giving consideration to the application, the Town Planning Board (TPB) decided to reject the application and the reasons are :

- (a) the development under the application is not in line with the planning intention of "Agriculture" ("AGR") zone in the Ping Che and Ta Kwu Ling area which is intended 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 the planning intention, even on a temporary basis; and
- (b) the approval of the application will set an undesirable precedent for similar applications within the same "AGR" zone. The cumulative effect of approving such applications would result in a general degradation of the environment of the area.

A copy of the TPB Paper in respect of the application (except the supplementary planning statement/technical report(s), if any) and the relevant extract of minutes of the TPB meeting held on 1.2.2019 are enclosed herewith for your reference.

Under section 17(1) of the Town Planning Ordinance, an applicant aggrieved by a decision of the TPB may apply to the TPB for a review of the decision. If you wish to seek a review, you should inform me within 21 days from the date of this letter (on or before 15.3.2019). I will then contact you to arrange a hearing before the TPB which you and/or your authorized representative will be invited to attend. The TPB is required to consider a review

application within three months of receipt of the application for review. Please note that any review application will be published for three weeks for public comments.

Under the Town Planning Ordinance, the TPB can only reconsider at the review hearing the original application in the light of further written and/or oral representations. Should you decide at this stage to materially modify the original proposal, such proposal should be submitted to the TPB in the form of a fresh application under section 16 of the Town Planning Ordinance.

If you wish to seek further clarifications/information on matters relating to the above decision, please feel free to contact Mr. Tim Fung of Sha Tin, Tai Po & North District Planning Office at 2158 6237.

Yours faithfully,



(Raymond KAN)
for Secretary, Town Planning Board

**Similar S.16 Applications for Temporary Vehicle Repair Workshop
within/partly within “Agriculture” Zone in the vicinity of the Application Site
in the Ping Che and Ta Kwu Ling Area**

Rejected Applications

Application No.	Uses/Development	Date of Consideration	Rejection Reasons
A/NE-TKL/256	Temporary Vehicle Repair Workshop for a Period of 3 Years	28.5.2004	R1 – R2
A/NE-TKL/574	Proposed Temporary Shop and Services (Car Beauty Services), Vehicle Repair Workshop for a Period of 3 Years	13.10.2017	R3 – R5

Rejection Reasons

- R1 The application site fell within an area zoned "Agriculture" ("AGR"). The "AGR" zone was intended primarily to retain and safeguard good quality agricultural land/farms/fish ponds for agricultural purposes. It was also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong justifications had been provided in the submission for a departure from the planning intention, even on a temporary basis.
- R2 There was insufficient information in the submission to demonstrate that the use under application would not have adverse environmental and traffic impacts on the surrounding areas.
- R3 The development under application was not in line with the planning intention of “AGR” zone in Ping Che and Ta Kwu Ling area which was 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 was no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- R4 The applicants failed to demonstrate in the submission that the development would not cause adverse traffic impact on the surrounding areas.
- R5 The approval of the application would set an undesirable precedent for similar applications within the “AGR” zone. The cumulative effect of approving such similar applications would result in a general degradation of the environment of the area.

Recommended Advisory Clauses

- (a) to note the comments of the District Lands Officer/North, Lands Department that:
- (i) he noted that:
 - the occupation boundary and application boundary of the Site does not tally; and
 - an unauthorized structure was erected within the occupation boundary of the application lot;
 - (ii) the unauthorized structure concerned is not acceptable under the Lease. His office reserves the right to take necessary lease enforcement actions against it; and
 - (iii) the owners of the lot shall apply to his office for a Short Term Waiver (STW) to regularize the illegal structure erected on the Site. The application for STW will be considered by Government in its landlord's capacity and there is no guarantee that they will be approved. If the STW application is approved, its 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 waiver fee and administrative fees as considered appropriate by his office.
- (b) to note the comments of the Director of Environmental Protection (DEP) that:
- (i) the applicant is reminded that there is no existing public sewer near the Site, the nearest public sewer is along Ping Che Road which is about 250m away from the Site. To avoid water quality pollution to the nearby Ping Yuen River, the applicant should be advised to connect drainage serving covered areas to a septic tank and soakaway system via petrol interceptor to comply with requirements of ProPECC PN 5/93 Section 7(vii), 8 and 9. Open areas of the Site should be served by drainage channels connected to stormwater drains via petrol interceptor;
 - (ii) the applicant should be advised to comply with the requirements of ProPECC PN 5/93 Section 8 & 9 in the treatment and disposal of sewage, or provide chemical toilet which involves no discharge; and
 - (iii) the applicant should be reminded of the obligation to comply with all environmental protection/pollution control ordinances, in particular Water Pollution Control Ordinance, and to follow relevant noise and sewage mitigation measures and requirements in the latest "Code of Practice on Handling Environmental Aspects of Open Storage and Temporary Uses (COP)" as given in Notes to Annex I of the COP.
- (c) to note the comments of the Chief Town Planner/Urban Design and Landscape, Planning Department that inadequate planting area was observed along the eastern and southern boundary fence for tree planting, and as there is no major public frontage along the site boundary, it is not necessary to impose a landscape condition as its effect on enhancing the quality of public realm is not apparent.

- (d) to note the comments of the Chief Engineer/Mainland North, Drainage Services Department that:
- (i) the Site is in an area where no public sewer connection is available. EPD should be consulted regarding the sewage treatment/disposal aspects of the proposed development and the provision of septic tank;
 - (ii) the drainage proposal proposed in the application is not acceptable;
 - (iii) the Site is adjacent to a section of Ping Yuen River which is protected under the Land Drainage Ordinance (LDO). The requirements/conditions in LDO are applied if the works/development under this application would affect this river;
 - (iv) there were flooding complaints received related to this area. The applicant should provide adequate drainage system accordingly to safeguard his/her interest; and
 - (v) the general requirements in the drainage proposal are appended below:
 - surface channel with grating covers should be provided along the site boundary;
 - the details (invert level, gradient, general sections, etc.) of the proposed drain/surface channel, catchpits and the discharge structure shall be provided;
 - the cover levels of proposed channels should be flush with the existing adjoining ground level;
 - catchpit with covers should be provided where there is a change of direction of the channel/drain;
 - catchpits with sand trap shall be provided at the outlets of the proposed drainage system;
 - the applicant should check and ensure that the existing drainage downstream to which the proposed connection will be made have adequate capacity and satisfactory condition to cater for the additional discharge from the Site. The applicant should also ensure that the flow from the Site will not overload the existing drainage system;
 - the applicant is reminded that where walls are erected or kerbs are laid along the boundary of the same, peripheral channels should be provided on both sides of the walls or kerbs, and/or adequate openings should be provided at the walls/kerbs to allow existing overland flow passing through the Site to be intercepted by the drainage system of the Site with details to be agreed by DSD;
 - for those existing drainage facilities to which the applicant proposed to discharge the storm water from the Site is not maintained by DSD, the applicant should identify the owners of the existing drainage facilities to which the proposed connection will be made and obtain consent from the owners prior to commencement of proposed works;
 - the applicant is reminded that all existing flow paths as well as the run-off falling onto and passing through the Site should be intercepted and disposed of via proper discharge points. The applicant shall also ensure that no works, including any site formation works, shall be carried out as may adversely

interfere with the free flow condition of the existing drains, channels and watercourses on or in the vicinity of the Site any time during or after the works;

- the proposed drainage works, whether within or outside the site boundary, should be constructed and maintained by the applicant at his own expense;
- for works to be undertaken outside the lot boundary, the applicant should obtain prior consent and agreement from DLO/N of LandsD and/or relevant private lot owners;
- the applicant should make good all the adjacent affected areas upon the completion of the drainage works;
- the applicant should construct and maintain the proposed drainage works properly and rectify the system if it is found to be inadequate or ineffective during operation; and
- clear photos should be submitted showing the current conditions of the existing drainage from the discharge point(s) to the downstream and the existing drainage around the Site.

(e) to note the comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) that existing water mains are inside the Site and will be affected. The applicant is required to either divert or protect the water mains found on site with detailed comments appended below:

- (i) if diversion is required, existing water mains inside the Site are needed to be diverted outside the site boundary of the proposed development to lie in Government land. A strip of land of minimum 1.5m in width should be provided for the diversion of existing water mains. The cost of diversion of existing water mains upon request will have to be borne by the grantee/applicant. The applicant shall submit all relevant proposal to WSD for consideration and agreement before the works commence;
- (ii) if diversion is not required, the following conditions shall apply:
 - existing water mains are affected and no development which requires resiting of water mains will be allowed;
 - details of site formation works shall be submitted to the Director of Water Supplies for approval prior to commencement of works;
 - no structures shall be built or materials stored within 1.5m from the centrelines of water mains. Free access shall be made available at all times for staff of the DWS or their contractor to carry out construction, inspection, operation, maintenance and repair works;
 - no trees or shrubs with penetrating roots may be planted within the Water Works Reserve or in the vicinity of the water mains. No change of existing site condition may be undertaken within the aforesaid area without the prior agreement of the DWS. Rigid root barriers may be required if the clear distance between the proposed tree and the pipe is 2.5m or less, and the barrier must extend below the invert level of the pipe;

- no planting or obstruction of any kind except turfing shall be permitted within the space of 1.5m around the cover of any valve or within a distance of 1m from any hydrant outlet; and
 - tree planting may be prohibited in the event that the DWS considers that there is any likelihood of damage being caused to water mains; and:
- (iii) for provision of water supply to the development, the applicant may need to extend the 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.
- (f) to note the comments of the Chief Building Surveyor/New Territories West, Buildings Department (CBS/NTW, BD) that:
- (i) if the existing structures are erected on leased land without approval of the BD (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application;
 - (ii) before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BA should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO;
 - (iii) 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;
 - (iv) 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 the Building (Planning) Regulations (B(P)Rs) respectively; and
 - (v) if the Site does not abut a specified street of not less than 4.5m wide, its development intensity shall be determined under Regulation 19(3) of the B(P)Rs at the building plan submission stage.
- (g) to note the comments of the Director of Agriculture, Fisheries and Conservation (DAFC) that:
- (i) the Site is adjacent to Ping Yuen River. The applicant should be reminded to perform good site practice to prevent surface run-off and debris from polluting the river nearby; and
 - (ii) there is a woodland to the immediate northeast of the Site. The applicant should be reminded not to disturb/damage any tree in the woodland nearby.