

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/773

<u>Applicant</u>	: JSK Assets Limited represented by Top Planning Property Consultants Limited
<u>Site</u>	: Lots 456 RP, 459, 460, 461, 462 and 2229 RP in D.D. 83, Kwan Tei, Fanling, New Territories
<u>Site Area</u>	: About 6,300m ²
<u>Land Status</u>	: Block Government Lease or New Grant (demised for agricultural purpose only and no structure shall be erected on the lots)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zonings</u>	: (i) “Open Storage” (“OS”) (about 97% of the Site); and (ii) “Agriculture” (“AGR”) (about 3% of the Site) ¹
<u>Application</u>	: Temporary Logistics Centre for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary logistics centre for a period of three years at the application site (the Site) zoned “OS” on the OZP (**Plan A-1**). According to the Notes of the OZP, ‘Cargo Handling and Forwarding Facility’² is a Column 2 use in the “OS” zone, which requires planning permission from the Town Planning Board (the Board). The Site is currently used for logistics centre without valid planning permission.
- 1.2 The Site is accessible via a local access leading to Sha Tau Kok Road – Lung Yeuk Tau (**Plan A-2**). According to the applicant, the applied use comprises four one to two storey(s) structures (building height not more than 14m) with a total floor area of about 4,856m² for logistics centre, office, toilet, pump room and a rain shelter³. Eight loading/unloading spaces for container vehicles will be provided within the Site. Traffic mitigation measures including staff deployment at the ingress/egress of the Site to

¹ About 189m² (i.e. 3%) of the Site falls within the “AGR” zone, which is considered as minor boundary adjustment and not included in the planning assessments.

² According to the Definitions of Terms used by the Board, ‘Cargo Handling and Forwarding Facility’ includes logistics centre.

³ The total floor area includes a logistics centre with a floor area of about 4,530m², an office with a floor area of about 84m², a toilet with a floor area of about 16m², a pump room with a floor area of about 16m², and a rain shelter with a floor area of about 210m².

monitor the traffic condition, provision of traffic alert system and prior reservation for vehicular entry are proposed. The operation hours are between 8:00 a.m. and 6:00 p.m. from Mondays to Saturdays, with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**. The applicant also submits drainage and fire service installations (FSIs) proposals in support of the application (**Drawings A-2 and A-3**).

- 1.3 The Site is the subject of six previous applications. The last application (No. A/NE-TKL/708) submitted by the same applicant for the same use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 17.3.2023. The planning approval was subsequently revoked on 17.9.2024 due to non-compliance with the approval conditions. Details of the previous applications are set out in paragraph 6 below. Compared with the last approved planning application, the development parameters and layout of the current application remain unchanged.
- 1.4 In support of the application, the applicant has submitted the following documents.
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|--|---------------|
| (a) Application Form with attachment received on 27.8.2024 | (Appendix I) |
| (b) Further Information (FI) received on 24.12.2024 [^] | (Appendix Ia) |
| (c) FI received on 14.4.2025 [^] | (Appendix Ib) |
- [^] accepted and exempted from publication and recounting requirements
- 1.5 On 25.10.2024 and 14.2.2025, the Committee agreed to the applicant's request to defer making a decision on the application for two months each.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendix I to Ib**, as summarised below:

- (a) the Site falls within Category 1 areas under the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB-PG No. 13G);
- (b) the current application is on a temporary basis;
- (c) the applicant spent effort to comply with the approval conditions under the planning approval of previous application No. A/NE-TKL/708, but failed because the applicant was waiting for approval of Short Term Wavier (STW) so as to implement the FSIs proposal. Also, the applicant was revising the drainage proposal according to the comments from concerned department. The applicant advises that if the current application is approved, he will comply with all the approval conditions; and
- (d) the applied use is compatible with the surrounding land use. Adverse traffic, environmental and drainage impacts caused by the applied use are not anticipated. The applicant also applies for a STW from the Lands Department (LandsD).

3. Compliance with the “Owner’s Consent/Notification” Requirements

The applicant is not a “current land owner” but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by sending notice to the Ta Kwu Ling District Rural Committee by registered mail and posting site notice. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No. 13G) promulgated by the Board on 14.4.2023 is relevant to the application. The Site falls within Category 1 areas under TPB PG-No. 13G. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

Recent site inspection revealed that some storage items and container-vehicles were found at the Site. The Site and its vicinity will be monitored according to established practice.

6. Previous Applications

- 6.1 The Site, in part or whole, is the subject of six previous applications. Five applications (No. A/NE-TKL/50, 73, 102, 148 and 154) for temporary marble workshop, open storage of scrap metal, marble and/or steel materials for construction and vehicle repair workshop were approved with conditions by the Committee between 1997 and 2000. Applications No. A/NE-TKL/148 and 154 were revoked on 13.7.2001 and 22.9.2001 respectively due to non-compliance with approval conditions. Since these applications were of different uses, their planning considerations are not relevant to the current application.
- 6.2 The last previous application (No. A/NE-TKL/708) for temporary logistics centre submitted by the same applicant for the same use as the current application was approved with conditions by the Committee on 17.3.2023 mainly on the considerations that the applied use was not in conflict with the planning intention of the “OS” zone and was not incompatible with the surrounding environment; the application generally complied with the then TPB PG-No. 13F in that no major adverse departmental comments were received and the concerns of the relevant government departments and local residents could be addressed through imposition of approval conditions. While the applicant complied with the approval condition on the submission of FSIs proposal, the planning approval was subsequently revoked on 17.9.2024 due to non-compliance with approval conditions relating to the submission and implementation of the drainage proposal and the implementation of FSIs proposal.
- 6.3 Details of the previous applications are summarised at **Appendix III** and their locations are shown on **Plan A-1**.

7. Similar Application

There is no similar application in the same “OS” zone in the vicinity of the Site in the past five years.

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

8.1 The Site is:

- (a) fenced-off and formed;
- (b) currently used for logistics centre without valid planning permission; and
- (c) accessible via a local access leading to Sha Tau Kok Road – Lung Yeuk Tau.

8.2 The Site is located in an area of rural character mainly comprising open storage yards, warehouse, car repair workshops and vacant land. A residential development is located to the further north of the Site across Ng Tung River of the Site (**Plan A-2**).

9. Planning Intention

The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.

10. Comments from Relevant Government Departments

10.1 Apart from the government departments as set out in paragraph 10.2 below, other departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices IV** and **V** respectively.

10.2 The following government departments object to/do not support on the application:

Land Administration

10.2.1 Comments of the District Land Officer/North, LandsD (DLO/N, LandsD):

- (a) he objects to the application;
- (b) Lot Nos. 456 RP, 459, 460, 461, 462 and 2229 RP in D.D. 83 in the Site are either held under the Block Government Lease or New Grant for agriculture purpose only and no structure shall be erected on the lots. No right of access via Government land (GL) is granted to the Site;
- (c) the Site is already being used for the uses under application. The unauthorised structures as mentioned in paragraph 10.2.1 (d) below had

been stated in the previously approved planning application (No. A/NE-TKL/708), however, no rectification had been carried out as demanded;

- (d) the following irregularity covered by the subject planning application has been detected by his office:

unauthorised structures within the said private lots covered by the planning application

there are unauthorised structures on the private lots. The lot owners should immediately rectify the lease breaches and his office reserves the rights to take necessary lease enforcement action against the breaches without further notice. LandsD has reservation on the planning application since there are unauthorised structures on Lot No. 456 RP in D.D. 83 which are already subject to lease enforcement actions according to case priority. The lot owner should rectify the lease breaches as demanded by LandsD;

- (e) the following irregularity not covered by the subject planning application has been detected by his office:

unlawful occupation of GL not covered by the planning application

the GL adjoining the Site has been fenced-off and illegally occupied with unauthorised structure without permission. The GL being illegally occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under Cap. 28. The lot owners/applicant should immediately cease the illegal occupation of GL and remove the unauthorised structure. His office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (f) the lot owners/applicant shall remove the unauthorised structure and cease the illegal occupation of the GL not covered by the subject planning application immediately; and subject to the approval of the Board to the planning application which shall have reflected the rectification as aforesaid required, apply to his office for STW to permit the structures erected/to be erected. The application for STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. The STW, if approved, will be on whole lot basis and subject to such terms and conditions including certification for structural safety of the unauthorised structures, the payment of back-dated waiver fee from the first date the unauthorised structures were erected and administrative fee as considered appropriate to be imposed by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owners/applicant for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the applied use is temporary in nature, only erection of temporary structure(s) will be considered; and

- (g) unless and until the unauthorised structure and unlawful occupation of GL are duly rectified by the lot owners/applicant, his office objects to the application which must be brought to the attention of the Board when they consider the application.

Agriculture

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

the Site falls within the “AGR” and “OS” zones and is generally vacant with some structures. Agricultural infrastructures such as road access and water source are available in the area. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site generally possesses potential for agricultural rehabilitation, the applied use at the “AGR” portion of the Site, which is intended to be used for agricultural rehabilitation, is not supported from the agricultural perspective⁴.

11. Public Comments Received During Statutory Publication Period

On 3.9.2024, the application was published for public inspection. During the statutory public inspection period, six comments were received (**Appendix VI**). Four comments from the Chairman, 1st Vice-chairman and 2nd Vice-chairman of Fanling District Rural Committee and an individual object to the application mainly on the grounds of adverse traffic impact. One comment from an individual provides view that approval conditions under the last approved application No. A/NE-TKL/708 were not complied with. The remaining comment from a member of the North District Council indicates no comment on the application

12. Planning Considerations and Assessments

- 12.1 The application is for temporary logistics centre for a period of three years at the Site zoned “OS” on the OZP. The applied use is considered not in conflict with the planning intention of the “OS” zone, which is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. Taking into account the planning assessments below, there is no objection to the applied use on a temporary basis of three years.
- 12.2 The Site is located in an area of rural character mainly comprising open storage yards, warehouse, car repair workshops and vacant land. The Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD) considers that the applied use is not incompatible with the surrounding environment. She has no adverse comment on the application from the landscape planning perspective and advises that significant adverse impact on the existing landscape resource within the Site arising from the applied use is no anticipated.

⁴ The minor “AGR” portion of the Site is located at the residual area between the “OS” zone and Ng Tung River. This portion is considered as minor boundary adjustment and not included in the planning assessment. Footnote 1 above refers.

- 12.3 The Site falls within Category 1 areas under the TPB PG-No. 13G. The application generally complies with the TPB PG-No. 13G in that relevant government departments consulted, including the Commissioner for Transport, Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD), Chief Engineer/Construction of Water Supplies Department and Director of Fire Services (D of FS) have no objection to or no adverse comment on the application. To address the technical requirements of the concerned government departments, relevant approval conditions are recommended in paragraph 13.2 below. Regarding DLO/N, LandsD's concern on the unauthorised structures erected within the Site and the illegal occupation of GL, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.4 The Site is the subject of a previous application No. A/NE-TKL/708 submitted by the same applicant for the same use as the current application, which was approved with conditions by the Committee on 17.3.2023 mainly on the considerations as detailed in paragraph 6.2 above. The planning permission was subsequently revoked due to non-compliance with approval conditions. In support of the current application, the applicant submits drainage and FSI proposals which are accepted by CE/MN, DSD and D of FS respectively. Compared with the previous approved application, the development parameter and layout of the current application remains the same. The planning circumstances of the current application are similar to those of the approved application. As such, approval of the current application is in line with the Committee's previous decision. Should the Committee decide to approve the application, the applicant will be advised that should they fail to comply with any of the approval conditions again resulting revocation of the planning permission, sympathetic consideration may not be given to any further application.
- 12.5 Regarding the public comments as detailed in paragraph 11 above, the government departments' comments and planning assessments 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 in paragraph 11 above, the Planning Department has no objection to the application.
- 13.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of three years until 6.6.2028. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the implementation of the accepted drainage proposal within 9 months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.3.2026;
- (b) in relation to (a) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (c) the implementation of the accepted fire service installations proposal within 9 months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 6.3.2026;

- (d) if the above planning condition (b) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice; and
- (e) if any of the above planning condition (a) or (c) 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.

Advisory Clauses

The Recommended Advisory Clauses are at **Appendix V**.

13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant the 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

Appendix I	Application Form with Attachment received on 27.8.2024
Appendix Ia	FI received on 24.12.2024
Appendix Ib	FI received on 14.4.2025
Appendix II	Relevant Extracts of TPB PG-No. 13G
Appendix III	Previous Applications
Appendix IV	Government Departments' General Comments
Appendix V	Recommended Advisory Clauses
Appendix VI	Public Comments
Drawing A-1	Layout Plan
Drawing A-2	Drainage Plan
Drawing A-3	FSIs Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos